

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

- - - - -

Karl Shaw,	:	
	:	
Plaintiff,	:	
	:	Case No. 2:18-cv-483
vs.	:	Judge Graham
	:	Magistrate Judge Vascura
City of Columbus,	:	
et al.,	:	
	:	
Defendants.	:	

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DEPOSITION OF THOMAS QUINLAN

- - - - -

Taken at Spectrum Reporting LLC  
400 S. Fifth Street, Ste. 201  
Columbus, OH 43215  
June 12, 2019, 11:09 a.m.

- - - - -

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A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

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By Frederick M. Gittes, Esq. and  
Jeffrey P. Vardaro, Esq.

and

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By Sean L. Walton, Esq.

ON BEHALF OF DEFENDANTS:

Columbus City Attorney's Office  
77 North Front Street, 4th Floor  
Columbus, OH 43215  
By Richard N. Coglianese, Esq.

ALSO PRESENT:

Karl Shaw  
David Rutz - Intern

Wednesday Morning Session

June 12, 2019, 11:09 a.m.

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S T I P U L A T I O N S

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It is stipulated by counsel in attendance that the deposition of Thomas Quinlan, a witness herein, called by the Plaintiff for cross-examination, may be taken at this time by the notary pursuant to notice and subsequent agreement of counsel that said deposition may be reduced to writing in stenotypy by the notary, whose notes may thereafter be transcribed out of the presence of the witness; that proof of the official character and qualification of the notary is waived.

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(Exhibits retained by Spectrum Reporting)

1 THOMAS QUINLAN

2 being first duly sworn, testifies and says as  
3 follows:

4 CROSS-EXAMINATION

5 BY MR. VARDARO:

6 Q. Could you state your name for the  
7 record.

8 A. Thomas Quinlan, Q-U-I-N-L-A-N.

9 Q. What is your current employment?

10 A. City of Columbus.

11 Q. All right. I will -- I guess I'll  
12 start by introducing myself on the record. My  
13 name is Jeff Vardaro. I'm one of the attorneys  
14 for Karl Shaw in this case.

15 Have you been in a deposition before?

16 A. Yes, sir.

17 Q. About how many times?

18 A. A dozen.

19 Q. Okay. When was the last time that you  
20 can remember?

21 A. Two, three months ago, maybe.

22 Q. Okay. What was the case?

23 A. I'm trying to recall. I honestly don't  
24 recall. I have several overlapping right now and

1 I don't recall the --

2 Q. Okay. Related to the work with the  
3 Columbus Police?

4 A. It is. It is.

5 Q. Okay.

6 A. All of them have been.

7 Q. Was it a discrimination case?

8 A. No. I think -- I think the last one I  
9 was in -- involved in was out of the police  
10 involved shooting possibly.

11 Q. Okay. And how about before that, last  
12 time before two or three months ago?

13 A. Same, just random times --

14 Q. Okay.

15 A. -- involved in a deposition work  
16 related.

17 Q. Okay. Do you remember who was  
18 conducting the deposition that you did a couple  
19 months ago?

20 A. I don't remember if that was -- that  
21 wasn't yours. I would have to check with city  
22 attorney's office. I do not know.

23 Q. Okay. Well, since you don't seem to  
24 remember a whole lot about the -- even the more

1 recent depositions, I will go over some of the  
2 ground rules, at least that I use during  
3 depositions just as a refresh.

4 A. Yes, sir.

5 Q. I'm going to be asking you most, if not  
6 all of the questions that you're asked today. If  
7 I ask a question and you don't understand it, I  
8 would like you to tell me that you don't  
9 understand it and I'll try to rephrase it in a way  
10 you can understand. Will you do that for me?

11 A. Yes, sir.

12 Q. And if you answer a question and you  
13 don't ask me to clarify it, I'm going to assume  
14 that you understood the question unless you've  
15 told me.

16 A. I understand that.

17 Q. I'm also going to be asking you  
18 questions about things that are -- at this point  
19 happened four or five years ago. I understand  
20 that nobody's memory is perfect. So if you  
21 realize in the course of the deposition that you  
22 said something wrong or you couldn't remember  
23 something and then something jogs your memory and  
24 you do, do you understand that you can interrupt

1 me at any time to correct what you've said or add  
2 to it?

3 A. Yes, sir.

4 Q. And will you do that for me?

5 A. Yes.

6 Q. All right. I'm going to ask you a  
7 couple questions that I ask basically everybody  
8 who goes through this. Are you -- do you have any  
9 medical conditions or are you on any medications  
10 that would interfere with your ability to testify  
11 fully and accurately today?

12 A. No, sir.

13 Q. Do you -- is there any other reason  
14 that you couldn't testify fully or accurately  
15 today?

16 A. No, sir.

17 Q. Okay. I assume from your position that  
18 I know the answer to this, but -- have you been  
19 convicted of a crime at any point?

20 A. No, sir.

21 Q. Okay. Did you have an opportunity to  
22 meet with counsel to prepare for this deposition?

23 A. Yes, sir.

24 Q. When did that happen?



1 A. A week or so ago.

2 Q. Okay. Was that the only time?

3 A. Yes, sir.

4 Q. Okay. About how long was that prep?

5 A. 30, 35 minutes.

6 Q. Okay. And who did you meet with? Rich  
7 Coglianesese?

8 A. Yes, sir. That was my answer. Sorry.  
9 Pointing doesn't work. Sorry.

10 Q. Yeah. I will say --

11 A. Right.

12 Q. -- we're not on video --

13 A. Right.

14 Q. -- even if we were --

15 A. I apologize.

16 Q. -- the record needs --

17 A. Right. I understand that. Slip of the  
18 mind.

19 Q. And now we'll go into another ground  
20 rule, which is I sometimes, maybe more than other  
21 attorneys, tend to meander around to my point and  
22 so --

23 MR. COGLIANESE: I haven't noticed.

24 Q. -- I will say to both you and Rich, if

1       you could let me get to the end of the question  
2       before you answer, and I will try to let you get  
3       to the end of your answer before I interrupt you.

4       A.           Thank you.

5       Q.           And that will make it easier for Mary.

6               All right. Did you review any  
7       documents to prepare for your deposition today?

8       A.           A few e-mails.

9       Q.           Okay. Do you remember what e-mails you  
10      reviewed?

11      A.           I don't. They're dated. They were  
12      back during the time this occurred, so I don't  
13      recall.

14      Q.           Okay. Do you remember who the  
15      e-mails -- was it e-mails that you wrote or  
16      received?

17      A.           Yes. I think they're e-mails that I  
18      wrote to look to see what they -- what the  
19      contents was or refresh my recollection as I was  
20      preparing.

21      Q.           Okay. And they were about this -- the  
22      investigation of Eric Moore or about Karl Shaw in  
23      some other way?

24      A.           Yes, about the Eric Moore

1 investigation.

2 Q. Okay. I could be wrong, but I don't  
3 know that I've actually seen any e-mails to or  
4 from you about this investigation. Have you been  
5 asked to provide e-mails to counsel about this  
6 investigation?

7 A. The requests go to our public records  
8 unit and they do a -- they have a software that  
9 does a search.

10 Q. Okay.

11 A. So I'm never even notified, they just  
12 go in and grab them and take them.

13 Q. Okay. How did you get the e-mails that  
14 you were reviewing?

15 A. I think I just did a query for Eric  
16 Moore or something trying to refresh a date in my  
17 mind.

18 Q. Okay. And at least a few e-mails  
19 popped up?

20 A. Yes, sir.

21 Q. Okay. Were any of them between you and  
22 Chief Jacobs?

23 A. I would have to recall. I would have  
24 to go back and look. I don't recall any.

1 Q. Okay.

2 A. May have been.

3 Q. How about between you and Jennifer  
4 Knight?

5 A. There may have been, yes.

6 Q. Okay. What about there's -- I'm going  
7 to get the name wrong, a Jeff Lokai?

8 A. It's Lokai.

9 Q. What's his first name?

10 A. Jeff.

11 Q. Oh, okay.

12 A. Jeff Lokai.

13 Q. Was there e-mails --

14 A. I do not recall any with him.

15 Q. Okay. I will ask you once we're done  
16 with this deposition, if you could do that query  
17 again and send those --

18 A. Provide them?

19 Q. -- send what you've got to Rich and he  
20 can just double check --

21 A. Yes, sir.

22 Q. -- that those have been provided to us.

23 THE WITNESS: Please remind me of that.

24 MR. COGLIANESE: Yeah.

1 THE WITNESS: Thanks.

2 Q. Okay. Anything -- besides those  
3 e-mails, did you review anything else?

4 A. No. I've not reviewed the  
5 investigation or anything.

6 Q. Okay. Have you seen the complaint in  
7 this case, the lawsuit that Karl Shaw filed?

8 A. Probably in the very beginning when it  
9 was originally filed, but not since then.

10 Q. Okay. I guess putting aside the  
11 specific e-mail, like what was in each particular  
12 e-mail, because I understand you don't remember  
13 exactly which e-mails you reviewed, was there  
14 anything in the e-mails that you reviewed in  
15 preparing for this deposition that helped to  
16 refresh your memory about some specific thing?

17 A. Nothing that I -- have no idea what  
18 you're going to inquire about, so there's nothing  
19 in there that said, oh, yeah, I need to remember  
20 that or -- it was just general information about  
21 a -- say maybe like a quick direction to Jen  
22 Knight or something like that that I may do this  
23 or send me this. Something like that.

24 Q. Okay. Do you remember the time

1 frame -- I mean, I'm not asking for dates, but the  
2 time frame in terms of what stage of the Moore  
3 investigation that these e-mails would have been  
4 from?

5 A. I have no recollection of that.

6 Q. Okay. We'll get back into those  
7 questions in a little bit, I'll switch subjects  
8 for a second.

9 I may have asked this already, but  
10 other than the e-mails, any other documents you  
11 reviewed to prepare?

12 A. No, sir.

13 Q. Okay. Can you tell me what is your  
14 highest level of education?

15 A. Master's degree.

16 Q. Where did you get that?

17 A. Central Michigan University.

18 Q. Okay. And when was that?

19 A. 2001, as I recall.

20 Q. Okay. Was that in criminal justice or  
21 something else?

22 A. No. Human resource administration.

23 Q. Okay. And where did you get your  
24 bachelor's degree?

1 A. The Ohio State University.

2 Q. Okay. When was that?

3 A. 1993.

4 Q. Okay.

5 A. I believe.

6 Q. And where did you go to high school?

7 A. East Liverpool.

8 Q. Okay. Graduation?

9 A. 1984.

10 Q. Okay. When did you join the Columbus  
11 Police?

12 A. December of 1989, 24th.

13 Q. Okay. So you were -- you were going to  
14 school at Ohio State as you were in the police  
15 department?

16 A. I was sitting out at that time until I  
17 got through my one-year probation, then I went  
18 back to school. I had been going to school  
19 previous to that.

20 Q. Okay. Do you have a major in -- at  
21 Ohio State?

22 A. Yes, sir. Criminal justice.

23 Q. Okay. All right. Okay. And so what's  
24 your current title with the Columbus Police?

1 A. Interim chief of police.

2 Q. Okay. When did you become interim  
3 chief?

4 A. February 8th, 2019.

5 Q. Okay. And that was when Chief Jacobs  
6 required?

7 A. Yes, sir.

8 Q. Okay. Prior to being interim chief,  
9 what was your assignment?

10 A. Deputy chief of police.

11 Q. Okay. How long had you been deputy  
12 chief?

13 A. Since October of 2013, as I recall.  
14 Right thereabouts.

15 Q. And my understanding is the deputy  
16 chiefs, at least under Chief Jacobs'  
17 administration, were assigned -- they have a  
18 particular divisions of the police department that  
19 were under each deputy chief?

20 A. Some divisions, yes, sir.

21 Q. Okay. And did -- were your  
22 subdivisions the same throughout your time as  
23 deputy chief or did they change?

24 A. No. They stayed the same. I was



1 patrol north deputy chief the whole time.

2 Q. Okay. Prior to being -- actually, I'm  
3 sorry.

4 In October 2013 when you became deputy  
5 chief, was Chief Jacobs already the chief?

6 A. Yes, sir.

7 Q. Okay. What was your assignment prior  
8 to being deputy chief?

9 A. Police commander.

10 Q. Okay. And what was your -- what were  
11 you the commander over?

12 A. Before I was promoted, training bureau.

13 Q. Training bureau? Okay.

14 When were you promoted to commander?

15 A. It was about September of 2009, as I  
16 recall, right around that September, October time  
17 frame.

18 Q. Okay. Prior to that, you were a  
19 lieutenant?

20 A. Yes, sir.

21 Q. How long were you a lieutenant?

22 A. 2001 -- February 2001, I believe, until  
23 2009.

24 Q. Okay. When -- and prior to that I

1       assume a sergeant?

2       A.           Yes, sir.

3       Q.           When did you get promoted to sergeant?

4       A.           February 2006 -- or 1996.

5       Q.           Okay. I don't want to go through every  
6       single assignment that you had.

7       A.           I understand.

8       Q.           Were you in internal affairs at this  
9       point?

10      A.           No, sir.

11      Q.           Okay. Were you ever over internal  
12      affairs?

13      A.           No. I was companion to it,  
14      professional standards bureau, which is -- handles  
15      all the cases internal affairs puts out to the  
16      chief for departmental charges.

17      Q.           When you say you were "companion," did  
18      you mean you were in the professional standards  
19      bureau?

20      A.           Yes, sir.

21      Q.           Okay.

22      A.           It's different than internal affairs,  
23      internal affairs bureau and professional standards  
24      bureau.

1 Q. When were you in professional  
2 standards?

3 A. It was roughly some month in 2002,  
4 early 2002 until April 2005 or '6.

5 Q. Okay. And that was under Chief Jackson  
6 or --

7 A. That was under Chief Jackson.

8 Q. Okay.

9 A. Might even have been 2004. I  
10 apologize. I don't recall. I think it was 2004,  
11 actually.

12 Q. Okay. When you started or when you  
13 finished?

14 A. When I finished and when I went to  
15 patrol.

16 Q. A couple years?

17 A. So February of 2004 I went to patrol.

18 Q. Okay. So a couple of years?

19 A. Yes, sir.

20 Q. Okay. Is there a deputy chief, or was  
21 there at the time that you were a deputy chief  
22 that is over internal affairs?

23 A. I don't recall at what point, but the  
24 most recently internal affairs was a direct report

1 to the chief of police.

2 Q. Okay. But that was throughout the time  
3 that Chief Jacobs was chief or --

4 A. Yes.

5 Q. Okay. I want to talk a little bit  
6 about your training in EEO, equal employment  
7 opportunity.

8 A. Yes, sir.

9 Q. I guess I'll start with: Did you get  
10 special training as part of your master's degree  
11 in human resources administration in equal  
12 employment opportunity?

13 A. I don't know if I would classify it as  
14 specialized training. I had courses between labor  
15 law, administrative law and regulatory processes,  
16 and other courses in human resources like that  
17 that would -- that part of the course spoke on  
18 EEO.

19 Q. Okay. No individual course just about  
20 discrimination or retaliation or anything like  
21 that?

22 A. No, sir.

23 Q. Okay. While you were with the Columbus  
24 Division of Police, have you had training in

1 discrimination, retaliation or other EEO  
2 procedures?

3 A. In-service training, yes, sir.

4 Q. Okay. When was your last in-service  
5 training?

6 A. I would have to review records. I do  
7 not know.

8 Q. Okay. Was it this year?

9 A. We tend to do something at least every  
10 other year at a minimum.

11 Q. Okay. Who provided the last in-service  
12 training that you did on EEO if you remember?

13 A. I would have to review records. I  
14 don't remember. But we also do ethics training  
15 every year, which kind of touches on it as well.  
16 And Ohio Ethics Commission comes in and provides  
17 that training.

18 Q. Okay. Do you remember whether your  
19 last ethics training dealt with discrimination or  
20 retaliation?

21 A. I don't recall specifically.

22 Q. Okay. Do you remember whether your  
23 last EEO training with the CPD was done by folks  
24 from Columbus -- city of Columbus HR or Columbus

1 Police HR or somebody from the outside?

2 A. That course is usually team taught by a  
3 regular police instructor and a human resources  
4 manager.

5 Q. Okay. When you say, "a regular police  
6 instructor," you mean internal instructor from  
7 CPD?

8 A. Yes, sir.

9 Q. Okay. Who's the person at CPD who does  
10 that?

11 A. I've done a lot of training. I don't  
12 remember which one handles which activity.

13 Q. Okay. Have you ever been the person  
14 that provided the training?

15 A. No, sir.

16 Q. Okay. In any of the positions that we  
17 just walked through, was it your responsibility  
18 to, I guess other than as a general command staff  
19 officer, was it your responsibility to administer  
20 CPD's EEO policies?

21 A. No. I just want to add to what you  
22 said, other than it's all our responsibility to  
23 report. I don't administer any of the policies.

24 Q. Okay. So your understanding as a CPD

1 officer is that if you see or learn about some  
2 kind of discrimination or retaliation going on  
3 within the CPD, you're obligated to report it to  
4 somebody?

5 A. Report to human resources manager and  
6 to internal affairs.

7 Q. Okay. Have you ever done that?

8 A. Yes.

9 Q. When did you do that?

10 A. I would have to review records and go  
11 through IA files. I don't recall, but it's --  
12 this is one of the cases I sent forward. I  
13 mean --

14 Q. When you say, "this is one of the  
15 cases," you mean Eric Moore's investigation?

16 A. Sorrell, Eric Moore investigation. Any  
17 other paperwork that came through on these  
18 allegations that would come to the deputy chief, I  
19 would send them to IA and instruct them to  
20 investigate. IA works with HR and decides who's  
21 going to specifically handle it, if it's going to  
22 be someone in the city administration or if IA  
23 specifically is going to.

24 Q. Okay. So you would have been the one

1       that sent this to IA to be investigated in the  
2       first place as an EEO?

3       A.           Yes, I -- as I recall. I don't have  
4       the record to reflect on right here, but as I  
5       recall, yes.

6       Q.           Okay. And I'm going to delve into this  
7       in a couple of minutes, but just to try to get it  
8       established, I guess. At the time that the first  
9       allegations from Wes Sorrell came out about Eric  
10      Moore and discriminatory comments he allegedly  
11      made, Eric Moore and Wes Sorrell were in your  
12      chain of command?

13     A.           At the time they surfaced, yes.

14     Q.           Okay. And I just want -- we've had  
15     some confusion over this, but at the time Eric  
16     Moore allegedly made the discriminatory comments,  
17     he was in SRB?

18     A.           Yes, sir.

19     Q.           Was SRB under your chain of command?

20     A.           Yes, sir.

21     Q.           Okay.

22     A.           Now, I want to clarify real quick. At  
23     the time they were reported, I was there. At the  
24     time they actually occurred, I don't recall if I



1 was in that assignment yet or not.

2 Q. Because you weren't deputy chief yet?

3 A. Correct.

4 Q. Okay. All right. So stepping back to  
5 EEO training. Is -- is it your understanding that  
6 Columbus Police has its own EEO rules and  
7 regulations separate from the laws that apply to  
8 everybody?

9 A. They're complimentary to the laws.

10 Q. Okay. What do you mean by that?

11 A. They use the language of statute to  
12 direct our employees of what the responsibilities  
13 and expectations are, policy.

14 Q. Okay. Can there be violations of CPD  
15 EEO policy that don't necessarily rise to the  
16 level of a legal violation?

17 A. Yes.

18 Q. Okay. But pretty much if it violates  
19 state and federal EEO laws, it's also going to  
20 violate CPD policy?

21 A. Yes. Not only the EEO policy, but we  
22 also have a rule of conduct to obey laws and  
23 ordinances.

24 Q. So just in general, any CPD officer

1       that does something that violates the law, it's  
2       going to violate CPD policy always basically?

3       A.           Yes. With the condition that we have  
4       to first investigate and determine just cause.  
5       Because the contract requires, you know, a full  
6       just cause determination prior to determining  
7       sustained finding.

8       Q.           Okay. And in your experience or to  
9       your understanding, while you were deputy chief  
10      under Chief Jacobs, was -- was it CPD's policy to  
11      treat EEO violations as particularly serious?

12     A.           Yes.

13     Q.           Okay. Are you familiar with the term  
14      "critical misconduct" as it applies to the CPD?

15     A.           Yes.

16     Q.           What is critical misconduct?

17     A.           Conduct that would likely result in  
18      departmental charges or some substantial job  
19      action.

20     Q.           Okay. Would an EEO violation typically  
21      be treated as critical misconduct?

22     A.           Depends on the nature of it. There are  
23      some that are very -- relatively innocuous in  
24      nature that someone may report. There's others

1       that are blatant and need immediate, you know,  
2       follow up.

3       Q.           Okay. Can you give me an example of an  
4       innocuous EEO violation?

5       A.           Someone is typing out something on a  
6       computer screen, an e-mail to somebody and  
7       somebody passes by behind them and sees something  
8       that -- that, you know, says something that --  
9       says something that's more of say a sexual nature  
10      or whatever. Someone takes offense to it. That's  
11      not directed towards that person; wasn't meant to  
12      be seen by that person. It's not something that's  
13      horrendous, you know, just something that whatever  
14      the term was an individual took offensively, even  
15      though we don't know that it was intended that way  
16      or it's used in maybe common language.

17                But if someone took offense to that,  
18      then we would investigate that. But that could be  
19      innocuous. It's not particularly harmful on its  
20      face. You have to understand what the person --  
21      how the person received it.

22      Q.           Okay. Is it also fair to say that if  
23      something already violates some kind of CPD rule  
24      on its own, but also is determined to be an EEO

1 violation, that that would make it more serious?

2 A. Again, you can violate CPD rule and  
3 EEO, but there's a spectrum or a continuum of how  
4 critical that particular phrase, comment, action  
5 was compared to others.

6 Q. Okay. Do CPD rules also prohibit  
7 retaliation against officers who participate in  
8 EEO investigations?

9 A. Yes.

10 Q. And they also prohibit retaliation  
11 against officers who participate in internal  
12 affairs investigations and other forms of  
13 investigation, correct?

14 A. Be more specific, all employees.

15 Q. Okay. Not just officers.

16 A. Correct.

17 Q. Would retaliation against an officer  
18 who participated in the EEO investigation  
19 typically be considered critical misconduct?

20 A. Retaliation, yes.

21 Q. Okay. And how about retaliation  
22 against an officer who participated in an IA  
23 investigation?

24 A. Let me phrase it in maybe a slightly

1 different way. Not rephrase it, but answer it in  
2 a slightly different way. We take them to be  
3 critical on their face. We do not take job action  
4 against someone without proof, so we have to  
5 investigate first, because the contract requires a  
6 person suffers no career disadvantage except for  
7 just cause, and there's seven steps that we have  
8 to prove before we can take a particular action  
9 against them.

10 Q. Did you say seven steps or some steps?  
11 I didn't hear what --

12 A. Well, there's seven steps typically  
13 associated with just cause.

14 Q. Okay. Can you run me through quick  
15 what those seven steps are?

16 A. I know you know them, you're just  
17 testing me, so...

18 Q. I literally don't. We don't do a lot  
19 of FOP arbitrations, so...

20 A. The seven steps are there must be a  
21 rule.

22 The rule must be -- number two, the  
23 rule must be reasonably related to the efficient,  
24 effective operation of the workplace.

1                   There has to be notice, number three.  
2       Notice of a rule to the employee so you know it's  
3       a rule.

4                   Number four, there has to be an  
5       investigation conducted.

6                   Number five, the investigation must  
7       provide sufficient proof that the rule was  
8       violated by a preponderance of the evidence, or  
9       sometimes it's looked at as clear and convincing  
10      evidence.

11                  Number six, you have to take into  
12      consideration what you've done to other employees  
13      who have done the same thing.

14                  And number seven, you have to consider  
15      the employee that's -- that's at fault or accused,  
16      their specific work record, compliments, past  
17      discipline, awards, stuff like that to see, have  
18      we treated everybody the same? Is there a reason  
19      to progress this for this employee but not  
20      another? So you have to compare them. That's the  
21      seventh step.

22      Q.           Okay. And those seven steps are what  
23      you have to --

24                  THE WITNESS: Pass?

1 MR. COGLIANESE: You did.

2 Q. That was impressive, by the way.

3 A. That may be the only one I get.

4 Q. Those seven steps are what you have to  
5 go through to justify departmental charges against  
6 somebody? Is that -- is that what there are steps  
7 for?

8 A. Departmental charges, or to take some  
9 type of action that could cause someone a career  
10 disadvantage. Sometimes it could be just  
11 relieving a person of duty can impact their  
12 career, because they're not able to work special,  
13 they can't maybe go to court and earn overtime or  
14 schedule for other overtime assignments, so they  
15 are losing pay without any just cause. So there's  
16 many issues that we have to think of.

17 Q. Okay. All right. I want to just walk  
18 through some of your relationships with people who  
19 are involved in this case, witnesses and  
20 decision-makers, things like that.

21 A. Yes.

22 Q. First of all, can you tell me your  
23 relationship with retired Chief Jacobs?

24 A. A mentor to me. Has helped progress my

1 career from the time I made lieutenant. Has, you  
2 know, worked with me and helped develop me along  
3 the way. I have a lot of respect for Chief  
4 Jacobs.

5 Q. Okay. Would you consider her a  
6 personal friend?

7 A. We haven't done anything outside of  
8 work together as far as any type of interaction,  
9 but I would consider her a friend.

10 Q. Okay. When did you first meet Chief  
11 Jacobs?

12 A. Throughout my career, throughout -- I  
13 mean, she was a patrol lieutenant. And when I was  
14 an officer, I believe, and I had opportunities to  
15 encounter her in the patrol admin office  
16 periodically, didn't really get to know her much  
17 until she was a commander over radio.

18 When I was promoted to lieutenant, she  
19 called me in. I was first on the list, so I had a  
20 choice between three jobs that were open, because  
21 three of us were being promoted. And she invited  
22 me to come work for her at radio room since I had  
23 a choice of three jobs, and I accepted that  
24 request.



1 Q. Okay. So she's been your direct  
2 supervisor several different times over the course  
3 of your career?

4 A. Yes. In radio room for a short time  
5 period before she was moved to internal affairs.  
6 And C4 and I was L4, so patrol. Then as a deputy  
7 chief -- actually, I'm sorry, she was a deputy  
8 chief over me in training bureau for a short time  
9 before she was made chief. And then as chief, she  
10 promoted me to deputy chief.

11 Q. Okay. When -- you said she was over  
12 internal affairs at some point?

13 A. Yes, sir.

14 Q. And you were in that role, you had some  
15 direct relationship with her?

16 A. No, not direct relationship with her.  
17 I, again, was assigned to professional standards.  
18 I -- all the investigators, sergeants that  
19 completed cases would bring their case to me for a  
20 just cause review, and I would draft the  
21 departmental charges against an officer, present  
22 those charges to the chief and to the director for  
23 suspension or termination for officer misconduct.  
24 I had little to no interaction with Chief Jacobs

1 as she was the internal affairs commander.

2 Q. Okay. But you were -- you were in  
3 professional standards when she was internal  
4 affairs commander?

5 A. Yes.

6 Q. Okay. What is the role -- you said you  
7 would deal directly with the sergeants who did the  
8 investigations when you were in professional  
9 standards. What is the role of the commander of  
10 internal affairs in relation to professional  
11 standards bureau?

12 A. To assign cases, direct the cases as  
13 they progress, and to review and approve the case  
14 as it's finalized before it goes to chain of  
15 command for decisions.

16 Q. Okay. Does the commander of IAB  
17 participate in the decision-making process about  
18 what things rise to the level of departmental  
19 charges?

20 A. They would -- sorry, they would have  
21 input.

22 Q. Okay. Does professional standards  
23 bureau -- go the other way around. Does the  
24 professional standards bureau have input into the

1 scope of an internal affairs investigation in  
2 terms of what things are worth investigating and  
3 what things are not?

4 A. Not at that stage that you described.

5 Q. What is -- is there a stage at which  
6 they would?

7 A. After the case comes to the chain of  
8 command and the chief approves departmental  
9 charges, it would come to the discipline grievance  
10 liaison lieutenant, which was my role. And I  
11 would review it for just cause. And I may say, if  
12 we are going to prove this case to the standard we  
13 need to meet, I will need this additional  
14 information so I could send it back for additional  
15 investigation at that point in order to close  
16 gaps.

17 Q. Okay. So professional standards would  
18 never basically be in a position of saying, don't  
19 bother following up on this, this isn't worth  
20 reviewing, that kind of thing. But they might be  
21 in the opposite position of saying, we need to do  
22 more follow up on a particular issue in order to  
23 justify such and such action?

24 A. That virtually sounds correct.

1 Q. Okay.

2 A. I don't want to say never. You said  
3 never.

4 Q. Yeah.

5 A. I can't say never would be involved,  
6 but virtually, that would be a correct statement.

7 Q. Okay. All right. Thank you for  
8 clarifying.

9 How about Deputy Chief Ronald Gray,  
10 what's your relationship with him?

11 A. Colleague.

12 Q. Okay. Is Deputy Chief Gray still with  
13 the department or --

14 A. He's retired.

15 Q. Okay. Did you ever report directly to  
16 Deputy Chief Gray or vice versa?

17 A. No, sir.

18 Q. Okay. Consider him a friend?

19 A. Colleague. Again, I don't do anything  
20 outside of work. I've never had interaction with  
21 him outside of work, but I consider him a friend  
22 through work.

23 Q. Okay. How about Deputy Chief Kuebler?

24 A. I'm familiar with him.

1 Q. He's still with the department?

2 A. He is.

3 Q. Okay. Is he a friend of yours?

4 A. Again, never anything outside of work,  
5 professional acquaintance and friend through work.

6 Q. Okay. Did either of you report to the  
7 other directly at any point in your careers?

8 A. We were both street lieutenants at the  
9 same time. Other than right now, I'm interim  
10 chief, he reports to me as the deputy chief, I  
11 can't think of any other time.

12 Q. Okay. How about Commander Gary  
13 Cameron?

14 A. Yes, sir.

15 Q. I'm just going to go through those same  
16 basic questions. Are they a personal friend, are  
17 they a colleague, are they --

18 A. Yeah.

19 Q. -- your arch nemesis, and, you know,  
20 did you report to them or did they report to you.

21 A. Okay.

22 Q. Cameron?

23 A. Or Cameron? Not a personal friend. I  
24 have been to his house for a birthday party for

1 his sister-in-law, who was my secretary. I've  
2 been on one motorcycle ride with him with a group  
3 of 20 people. Other than that, no other direct  
4 relationship.

5 Q. Okay. Are you in some kind of police  
6 motorcycle club or group or something?

7 A. No, no group like that that I know of.

8 Q. Okay. I understand from previous  
9 depositions that a couple different family members  
10 of Gary Cameron are secretaries in the department?

11 A. His spouse and his mother -- his spouse  
12 and his sister-in-law.

13 Q. Okay. Is one of them your secretary  
14 currently?

15 A. Not currently.

16 Q. Okay. Have they been at some point?

17 A. Yes. Both of them actually were at one  
18 point. As deputy chief, Nancy Cameron was my  
19 first secretary and then Donna Custer was my  
20 second secretary.

21 Q. All right. But they're both still  
22 secretaries in the department?

23 A. Yes.

24 Q. Okay. And no direct reporting

1 relationship between you and Cameron at any point?

2 A. Yes. He directly reported to me.

3 Q. Okay. When he was commander or --

4 A. Yeah. As a commander, I was deputy  
5 chief, he was patrol zone one, he directly  
6 reported to me.

7 Q. Do you remember the time frame?

8 A. He came over to zone one after he was  
9 removed from narcotics vice, which would have  
10 been, I don't know, 2016 maybe. I don't recall.

11 Q. Okay.

12 A. '17 maybe, 2017. Don't recall the time  
13 frame.

14 Q. Do you know why he was removed from  
15 narcotics vice?

16 A. Chief did not advise me.

17 Q. Okay. The same questions Commander --  
18 or I guess she's acting -- or interim Deputy Chief  
19 Jennifer Knight?

20 A. Yes.

21 Q. Go ahead.

22 A. Yeah. She's a direct report to me now.  
23 I'm trying to think if she's ever been a direct  
24 report other times. I don't recall her ever being

1 a direct report to me or me to her. Little to no  
2 outside interaction. We've been to a couple FOP  
3 events after work hours where she was there, I was  
4 there, her husband was there. And other than  
5 that, really nothing else that stands out with  
6 acting Deputy Chief Knight.

7 Q. Okay. Is acting Deputy Chief Knight's  
8 husband a police officer also?

9 A. Police sergeant.

10 Q. A police sergeant with CPD?

11 A. Yes, sir.

12 Q. Okay. Has he ever been your direct  
13 report?

14 A. No, sir.

15 Q. Okay. What's his assignment?

16 A. Internal affairs currently.

17 Q. Okay. Like the family business, I  
18 guess.

19 Lieutenant Ty Brust?

20 A. Yes, he's a classmate of mine.

21 Q. Okay. Consider him a friend?

22 A. I consider him a friend. We're  
23 classmates. We've spent a lot of time together.  
24 But, again, over the last 30 years, since the



1 academy, other than a few reunions or  
2 get-togethers, nothing outside of work.

3 Q. Okay. Lieutenant Echenrode -- or is he  
4 commander now?

5 A. He's commander now.

6 Q. Okay. Commander Echenrode?

7 A. A great deal of respect for Commander  
8 Echenrode. No outside of work relationship or  
9 activity. He was a direct report to me when I was  
10 deputy chief, and he was commander over SRB. No  
11 other direct report that I recall.

12 Q. Okay. When you say you have a great  
13 deal of respect for him, does that come from  
14 something in particular or you just --

15 A. I think he's a straight shooter and  
16 calls shots like he sees them. And he was in SWAT  
17 for years and had a reputation of being very level  
18 headed and just an all around -- shortest way to  
19 say it, everybody likes Joe Echenrode.

20 Q. Okay.

21 A. Not the arch nemesis you described.

22 Q. Okay. Any of these people that we  
23 described previously not fit those descriptions?

24 I mean --

1 A. None of them that you've said so far  
2 are arch nemesis, no.

3 Q. Okay. Lieutenant Kemmerling?

4 A. I know Lieutenant Kemmerling.

5 Q. Okay. Friend of yours?

6 A. Absolutely not.

7 Q. Okay. Arch nemesis?

8 A. Not a nemesis.

9 Q. Okay. What made you say, "absolutely  
10 not"?

11 A. I -- again, I explained Commander  
12 Echenrode I have a great deal of respect for. I  
13 would describe Lieutenant Kemmerling as the  
14 opposite.

15 Q. Okay. What -- any particular bad  
16 experiences or --

17 A. I think he's failed as a supervisor.

18 Q. Okay. In what sense?

19 A. He's failed to supervise.

20 Q. Okay.

21 A. He had a job to do. And he's had  
22 multiple assignments and has not performed those  
23 assignments to the expectations that I would have.

24 Q. Okay. Can you give me an example?

1           A.           Most recent one would be the Stormy  
2           Daniels case.

3           Q.           Okay. He was over vice?

4           A.           Yes.

5           Q.           Okay.

6           A.           He oversaw the operation.

7           Q.           Okay. And what would you say he did  
8           that didn't -- that he failed as a supervisor now?

9                       MR. COGLIANESE: And I'm just going to  
10          jump in with an objection to the extent that it is  
11          not privileged either through FBI investigations  
12          that may or may not still be ongoing or anything  
13          else, you can answer the question, but do not  
14          divulge any information that is still privileged.

15          A.           Certainly understand that.

16                       What did he do or didn't he do? He did  
17          not act as a supervisor over that particular  
18          incident. He was at scene. He allowed officers  
19          to make decisions that have greatly impacted the  
20          division. And he was aware of those decisions.  
21          Did not do his job as the supervisor. And he knew  
22          about the operation in advance and was the acting  
23          commander at the time and made no notification to  
24          anyone for someone else to say time out.

1 Q. Okay. What about with respect to this  
2 situation that we're talking about today and the  
3 Eric Moore investigation, Karl Shaw's situation.  
4 Do you feel like he had similar failures when he  
5 was over -- he was over SRB at some point?

6 A. He was. The enforcement team, and I  
7 named him, even though the original complaint did  
8 not, I added him as a focus for failure to  
9 supervise Eric Moore properly. Eric Moore was  
10 ultimately charged and terminated for theft of  
11 time basically, overtime, but he turned a blind  
12 eye to. Arbitrator ultimately ruled to give  
13 Sergeant Moore's position back, and a lot of that  
14 was because Lieutenant Kemmerling failed in his  
15 duties and signed the slips and asked no  
16 questions, and that was his job to do.

17 Q. Okay. Was Lieutenant Kemmerling --  
18 actually did he have anything sustained against  
19 him in this investigation?

20 A. The allegation I made against him was  
21 determined by internal affairs to be not  
22 sustained, which means that neither prove nor  
23 disprove it.

24 Q. Okay. When internal affairs says, "not

1       sustained" on an investigation, the chain of  
2       command can still overturn that and sustain it,  
3       right?

4       A.           The chain of command can recommend and  
5       argue more harsh or more lenient. The deputy  
6       chief will make the final determination.

7       Q.           Okay. When you say, "more harsh or  
8       more lenient," that can include turning something  
9       from unfounded or not sustained to sustained?

10      A.           Yes, they can recommend that.

11      Q.           Okay. You didn't do that in this  
12      particular situation?

13      A.           I did not, because as the case was  
14      presented to me without sending it back for -- he  
15      was secondary to the main issue. I wanted to move  
16      forward with the termination case against Sergeant  
17      Moore. To have sent that back to get more  
18      information, because IA did not obtain adequate  
19      information in my opinion to have sustained it.  
20      Had they done that, I think there would have been  
21      a case to be made for failure to supervise,  
22      mis-mal or nonfeasance. The real issue at that  
23      time was Sergeant Eric Moore and dealing with his  
24      misconduct, so it would have taken several months

1 to send it back, which means this would have been  
2 lingering, Eric Moore, so I left it not sustained  
3 and went after the employee who I felt needed  
4 terminated.

5 Q. Okay. And there was another employee  
6 also who had charges sustained against him --

7 A. Wes Sorrell.

8 Q. -- which was Wes Sorrell?

9 A. Yes, sir.

10 Q. Okay. All right. Well, that's a good  
11 segue into what's your relationship, then, with  
12 Eric Moore?

13 A. There is zero relationship other than  
14 supervisor/subordinate.

15 Q. Okay. Did you ever supervise him  
16 directly?

17 A. Never directly.

18 Q. Okay. He was just several links down  
19 in the chain at some points?

20 A. At some point he was in my chain of  
21 command, but several links down as you said.

22 Q. How about Wes Sorrell?

23 A. Never had any direct supervision of  
24 him.

1 Q. Okay. And no personal relationship?

2 A. No.

3 Q. Okay. How about Scott Watkins?

4 A. Same, no -- at one point in the links  
5 of the chain of command, but never direct report.

6 Q. Okay. Larry Wilson?

7 A. I coached Larry Wilson as an FTO.

8 Other than that, I have no interaction or

9 throughout his career had very little

10 interaction --

11 Q. Okay.

12 A. -- dealings with him.

13 Q. When were you his FTO?

14 A. 1992 maybe.

15 Q. Okay. How about Sergeant Doug  
16 Williams?

17 A. Only through the links of the chain of  
18 command that I have interaction with him there.

19 Q. Okay. Eric Cornett?

20 A. Again, through the chain of command.

21 Q. Okay. Stephanie Gibson?

22 A. Supervised her once directly as a  
23 forgery fraud sergeant. She was a forgery fraud  
24 detective.

1 Q. Okay.

2 A. And then again in the chain of command  
3 later in her career.

4 Q. Okay. In your -- and not a personal  
5 friend of yours?

6 A. No.

7 Q. Okay. Did you have any negative  
8 interactions with her when you were supervising  
9 her?

10 A. Nothing other than supervisory  
11 corrective action. Nothing, no serious  
12 discipline, nothing that was -- would have maybe  
13 questioned her competency or anything like that.

14 Q. Okay.

15 A. And just to clarify, all these I say  
16 there's no personal relationship, it's not that I  
17 dislike any of them, I just have no outside work  
18 relationship with any of them.

19 Q. Sure. Just going back to Stephanie  
20 Gibson for a second. In your dealings with her,  
21 you found her to be truthful, reliable?

22 A. Interactions I had with her, yes.

23 Q. Okay. Is there some -- I mean --

24 A. Nothing I know of.



1 Q. Okay.

2 A. I'm just --

3 Q. Okay.

4 A. -- for me, I've always had reliable  
5 interactions with her.

6 Q. Okay. Mary Battle, do you know her?

7 A. Same, yes.

8 Q. Okay. Just a -- some kind of indirect  
9 supervisory relationship at some point?

10 A. Yes.

11 Q. Okay. Falacia Dragin?

12 A. I know of her.

13 Q. Ever supervise her?

14 A. I was -- at one point I was ultimately  
15 over patrol admin and she was assigned. I don't  
16 recall what -- I think she was patrol south, so  
17 she was assigned to deputy chief. But when she  
18 was administrative unassigned or just assigned to  
19 patrol admin office in a restricted duty capacity,  
20 my chain of command supervised her on a daily  
21 basis, but she was permanently assigned patrol  
22 south.

23 Q. For a short period of time, long period  
24 of time?

1 A. Long period of time.

2 Q. Okay. So you know her relatively well?

3 A. I don't know that I would even know her  
4 to see her.

5 Q. Okay.

6 A. But I know the name.

7 Q. Okay. Karl Shaw?

8 A. I know him.

9 Q. Okay. What -- how would you describe  
10 your relationship?

11 A. Same as with everyone else,  
12 professional acquaintance.

13 Q. Okay. Never supervised him directly?

14 A. No, not directly.

15 Q. Okay. Whitney Lancaster?

16 A. I know him.

17 Q. Okay. Ever supervise him directly?

18 A. Not directly.

19 Q. Okay. Not a personal friend?

20 A. No.

21 Q. Okay. All right. I think I'm finished  
22 with that list.

23 I --

24 A. There's 1,900 people, come on.

1 Q. No, I know. I could keep going and  
2 going, but I think I'll stop.

3 A. Okay.

4 Q. We started getting into this and I'll  
5 jump back to it. When was the first that you  
6 heard -- or what was the first that you heard  
7 about what became the investigation of Eric Moore  
8 that we were talking about?

9 A. As I recall, this could be off a little  
10 bit, but as I recall at the time, Lieutenant  
11 Echenrode was assigned, came in and discovered  
12 some irregularities and brought it to my  
13 attention, or through the chain of command.

14 Q. Okay. Do you remember whether the  
15 irregularities had to do with discriminatory  
16 comments that Eric Moore made or whether it was  
17 something else?

18 A. I think the very first thing started  
19 out with the Sorrell/Moore investigation. And as  
20 that progressed and Sorrell was under -- as I  
21 recall it, when Sorrell felt he was under  
22 suspicion of critical misconduct, he started  
23 making allegations from years earlier that then  
24 were brought to my attention that involved an EEO

1 nature.

2 Q. Okay. And when you say the  
3 Sorrell/Moore investigation, you're talking about  
4 the theft of time, theft of equipment, that kind  
5 of --

6 A. Yes, sir.

7 Q. Okay. And I will say most of the  
8 questions that I have for you today obviously are  
9 about the EEO aspect of things.

10 A. I understand.

11 Q. As opposed to the theft of time. I may  
12 get into some of that stuff one way or the other,  
13 but -- but I will try to separate those out for  
14 you.

15 What did you do when you first became  
16 aware of this -- these allegations against Moore?

17 A. Directed Lieutenant Echenrode to  
18 conduct some interviews to get the facts of what  
19 we were dealing with and put it in writing and  
20 forward it.

21 Q. Okay. Who did you direct him to  
22 interview?

23 A. I don't recall the exact list of  
24 people. I think, you know, you mentioned --

1       sorry, I'm not supposed to look -- Watkins, that's  
2       it. Watkins, Doug Williams, might have been  
3       Stephanie Gibson, people that would have been  
4       around whatever Wes Sorrell had reported that may  
5       have overheard or had knowledge of the allegation  
6       of, if you will, hostile work environment.

7       Q.           Did you direct Echenrode to interview  
8       Eric Moore?

9       A.           He was -- would have been the person --  
10      I'm trying to remember. We're speaking about the  
11      EEO part of it?

12     Q.           Yeah.

13     A.           He would have -- I think I -- no, I  
14      think what I did was direct him to gather the  
15      information, what the allegation is from who might  
16      have -- may have been witnesses and send it  
17      forward. Then I would assign it to IA who would  
18      conduct a full investigation, which would have  
19      involved an interview with the person that is  
20      accused of misconduct.

21     Q.           Okay. So this was after -- I mean, at  
22      that point, you had already received the other  
23      allegations, the property and time issues?

24     A.           I did. I did.

1 Q. What did you do when you learned about  
2 those allegations?

3 A. Well, the theft of time I assigned for  
4 investigation as well, and directed that Commander  
5 Curmode tighten up the oversight or the failure to  
6 oversee the use of time. And the allegation that  
7 was forwarded to me included a self-disclosure of  
8 what was, on its face, criminal conduct by Wes  
9 Sorrell. Since it was a self-admission, I ordered  
10 him relieved of duty and a criminal investigation  
11 be conducted against him.

12 Q. Okay. And I think you sort of  
13 partially answered this. You didn't direct for  
14 Eric Moore to be relieved of duty at that point?

15 A. Not at that time. It was an allegation  
16 from the years prior.

17 Q. Okay.

18 A. And theft of time was something that,  
19 again, ranged over time that there was -- it  
20 needed to have an investigation before, because he  
21 denied it. It wasn't a self-admission.

22 Q. Okay.

23 A. They needed proof first.

24 Q. At the time that this stuff was coming

1 up, I mean, I'll represent to you my understanding  
2 is the first indication that there was some  
3 alleged misconduct by Moore or Sorrell would have  
4 been August of 2014. Does that sound about right?

5 A. I'll go by your recollection that you  
6 have in front of you better than my recollection.

7 Q. At that point, you -- SRB was in your  
8 chain of command as deputy chief?

9 A. At that point, yes.

10 Q. Okay. Was narcotics in your chain of  
11 command?

12 A. No, sir.

13 Q. Okay. Do you remember that Eric Moore  
14 at that -- by that time had transferred from SRB  
15 to narcotics?

16 A. I don't remember if it was by that  
17 time.

18 Q. Okay.

19 A. At some point, I know he did.

20 Q. Is it possible that he would have  
21 already transferred?

22 A. I would have to review records, but  
23 it's possible.

24 Q. Okay. Assuming that Moore was already

1 in narcotics at the time these allegations came  
2 up, would it have been your call about whether or  
3 not to relieve him of duty?

4 A. If evidence was brought to my attention  
5 that we had corroboration of a theft offense in  
6 the SRB chain of command, it would have been -- I  
7 could have ordered that. It would have been one  
8 of the -- one of the decisions I was allowed to  
9 make. If it was a hostile work relation or  
10 retaliation claim or anything like that, his  
11 current chain of command would make that.

12 Q. Why the distinction?

13 A. Because we have to have spans of  
14 control and unity of command. It's hard to have  
15 multiple people making decisions when there's  
16 other deputy chiefs where I'm making decisions of  
17 -- career-impacting decisions against their  
18 members. I can go to them and say, here's what we  
19 know, here's what I recommend, but it's their  
20 decision to make.

21 Q. Okay.

22 A. And Deputy Chief Mike Woods at the  
23 time, I believe over narcotics.

24 Q. Is it possible it was Ron Gray?



1       A.           At that time it could have been Ron  
2       Gray. I'm sorry. It was a transition period  
3       there.

4       Q.           Okay. Woods supervised narcotics  
5       previous to Gray or after?

6       A.           Super -- previous to Gray, you mean  
7       Woods?

8       Q.           Yeah. Woods -- that's what I'm saying,  
9       was Deputy Chief Woods over narcotics before Gray  
10      or after Gray?

11      A.           Okay. Here's where there's just a  
12      little bit of confusion and I've got to remember  
13      myself.

14      Q.           Sure.

15      A.           We had an executive staff retreat where  
16      I don't remember all the reporting chains, because  
17      Gray was over narcotics at some point. At some  
18      point Chief Jacobs changed narcotics bureau to  
19      place under the Homeland Security subdivision,  
20      which Mike Woods was over. I don't remember if  
21      that's while Deputy Chief Gray was still here or  
22      if he had retired and Mike Woods -- I don't  
23      remember dates of all those. But Deputy Chief  
24      Gray had it originally and at some point Mike

1 Woods had it. I don't remember the -- who had it  
2 at what point.

3 Q. Okay. So let me step back for a  
4 second, because I think I might be confused about  
5 something.

6 So you had said if there was a theft  
7 offense in the SRB chain of command, you would  
8 have responsibility for relieving a person of duty  
9 if it was corroborated. But if it was a hostile  
10 work environment or discrimination of some kind,  
11 then that person's current chain of command would  
12 handle it?

13 A. Let me be maybe a little more clear  
14 about it. If someone else was in another chain of  
15 command and I did have corroboration, although as  
16 a deputy chief I may have the authority to  
17 ultimately do that, I would not have done that. I  
18 would have gone to the deputy chief, and the two  
19 of us, if there was a disagreement, would have  
20 gone to the chief and made a decision whether to  
21 relieve the person or leave them in their -- in  
22 their position. So I would not have ultimately  
23 made that decision at that time.

24 Q. Okay. So assuming that Moore was

1 already out of SRB and was in narcotics, it would  
2 have been something where at minimum, you would  
3 have had to consult with whoever the deputy chief  
4 was over narcotics? And then if there was any  
5 disagreement, it would have gone to Chief Jacobs?

6 A. Again, to be very specific, not that I  
7 would have had to, I would have.

8 Q. Okay. Because any deputy chief  
9 could -- would have the authority to take  
10 virtually any officer --

11 A. Yes.

12 Q. -- out of service --

13 A. Yes.

14 Q. -- but --

15 A. The way it works, just so you  
16 understand, I can take that person as an  
17 intervening action as immediate, because there's a  
18 threat or something going on. Then it would go to  
19 -- the relief of duty paperwork would go to that  
20 deputy chief and the chief, and then they would  
21 decide whether to reinstate or to uphold the  
22 relief of duty.

23 Q. Okay. Chief Quinlan, I'm handing you  
24 what's been previously marked as Plaintiff's

1 Exhibit 10, which I'll represent to you is an  
2 e-mail chain that we were provided by the city in  
3 this case.

4 I just want to ask if that clarifies  
5 for you at all whose chain of command Sergeant  
6 Moore was in at the point when the internal  
7 affairs investigation, at least the portion of it  
8 that had to do with EEO, came up?

9 A. It would appear to be narcotics,  
10 because this e-mail is from Commander Gary  
11 Cameron, who was over narcotics, to Sergeant Ken  
12 Decker, who was the internal affairs investigation  
13 and --

14 Q. And it looks like at the top he's  
15 copying Chief Gray?

16 A. Okay.

17 Q. So does that -- I mean, does that  
18 square with the idea that Deputy Chief Gray was  
19 likely over narcotics, at least at that particular  
20 time?

21 A. Yes, that's what it would indicate to  
22 me.

23 Q. Okay.

24 A. Now, when these became known, Sergeant

1 Eric Moore was in a new chain of command.

2 Q. Okay. And we're going to talk to Chief  
3 Gray in a couple days, but I think at least for  
4 our purposes today, I'll assume that Deputy Chief  
5 Gray was over narcotics at the point when this  
6 particular decision was being made about relieving  
7 him from duty at the beginning of the  
8 investigation.

9 So in terms of that decision, do you  
10 remember one way or the other whether you were  
11 involved in discussions about whether or not to  
12 take Sergeant Moore off duty?

13 A. I don't recall.

14 Q. Okay. Do you remember any discussion  
15 that you had with Deputy Chief Gray about Sergeant  
16 Moore's duty status?

17 A. It's certainly possible, but I -- it's  
18 been so long, and I've had so many others, there's  
19 so many tentacles to this, I don't recall which  
20 one is which.

21 Q. Okay. Were there any of the e-mails  
22 that you reviewed in preparation for the  
23 deposition about Sergeant Moore's on duty or off  
24 duty status?

1 A. No, not to my recollection. I mean,  
2 there were like two e-mails or something that I  
3 looked at, so I don't recall.

4 Q. Okay. Do you remember any  
5 conversations you had with Chief Jacobs about  
6 decisions to leave Sergeant Moore on active duty  
7 or relieve him of duty or assign him to  
8 administrative duty or anything like that?

9 A. It's possible, but I don't recall as I  
10 sit here today that I had that discussion.  
11 Especially if he was in a different chain of  
12 command.

13 Q. Okay. During the course of this  
14 investigation of Sorrell and Moore over the theft  
15 of time, theft of property issues and/or over the  
16 discrimination, retaliation issues, first of all,  
17 all of those -- the whole investigation was  
18 principally conducted by Sergeant Ken Decker?

19 A. As I recall.

20 Q. Did you have any conversations with  
21 Sergeant Decker while the investigation was going  
22 on before it was -- before Decker made his  
23 findings?

24 A. I'm sure I did. But I'm also

1 reasonably certain they would have been focused on  
2 the theft of time and the theft of equipment, not  
3 on the EEO if that portion was being overseen by  
4 IA and under employees under a different chain of  
5 command.

6 Q. Okay. What would your conversations  
7 have been with Decker about the theft of time and  
8 equipment issues?

9 A. Just general status updates.

10 Q. Okay.

11 A. Witnesses still to be interviewed,  
12 evidence being discovered.

13 Q. Was that typical of IA practice or your  
14 practice in terms of investigations going on under  
15 your chain of command?

16 A. Not typical, but not unheard of. On  
17 complex cases, you can see there's a thousand  
18 pages of -- that it would be. A sergeant would  
19 come in and get clarification or direction on how  
20 much further do you want us to pursue this avenue  
21 or et cetera.

22 Q. Okay. Did you have update type  
23 conversations like that with Commander Knight  
24 while this was going on?

1       A.           I would have to ask her if she  
2       remembers, because I don't recall. There's  
3       certainly times she was in my office discussing  
4       cases during this time frame, but, again, there's  
5       multiple cases going on. I don't recall if it was  
6       this case or others.

7       Q.           Okay. In a case under your chain of  
8       command, would you expect that if internal affairs  
9       came up with some new evidence that changed the  
10      nature of the case or established some critical  
11      fact that you would be updated on it?

12     A.           Not particularly.

13     Q.           Okay.

14     A.           Their job would be to notify the chief  
15      of police probably.

16     Q.           Okay.

17     A.           Because that's their direct supervisor.  
18      And as the deputy chief over that chain of  
19      command, I'm going to only be making the decision  
20      at the end, so my preference is to remain neutral  
21      and out of the loop to the extent reasonable so I  
22      don't have a lot of pre-drawn conclusions or  
23      pieces of information. I can get a case in full  
24      after the chain of command's reviewed it and then



1 make my own determination based on the totality,  
2 so I try to stay somewhat neutral and independent  
3 in it.

4 Q. Okay. So what -- I mean, do you  
5 remember what Decker was telling you about the  
6 status of the case as it was going on?

7 A. I don't remember what he was telling  
8 me. It was -- I'm sure it was case related at the  
9 time, but with so much going on, I don't remember  
10 what the focus was.

11 Q. Okay. I mean, was he telling you what  
12 he was finding or was he telling you what he still  
13 needed to do or what he was thinking about doing?

14 A. The one thing that I specifically  
15 recall discussing at some point was that he had  
16 evidence that Eric Moore was being untruthful to  
17 him during interviews. And that in his words, as  
18 I recall, it was basically virtually everything he  
19 says is a lie.

20 Q. Okay.

21 A. And so we were pursuing that course.

22 Q. Okay.

23 A. Because that changes an investigation  
24 into a clear termination case.

1 Q. Okay. Do you remember what stage he  
2 told you that?

3 A. I do not.

4 Q. Okay. Do you remember whether it was  
5 before or after he finished his report?

6 A. I do not.

7 Q. Okay. Was that an in-person  
8 conversation or a phone call or an e-mail?

9 A. In person.

10 Q. Okay. This was in your office or --

11 A. In my office.

12 Q. Okay. Where was your office at the  
13 time in relation to IA?

14 A. 8th floor. IA is out on Long Street.  
15 So 8th floor central police headquarters. Totally  
16 different buildings, facilities.

17 Q. Okay. So he would have had to  
18 especially come over to headquarters?

19 A. He would have been in headquarters to  
20 gain records from HR, to talk to the chief.  
21 Internal affairs are frequently on the 8th floor  
22 dropping off packages, picking up packages.

23 Q. Okay. Was the chief involved in that  
24 conversation as well when Decker was telling you

1 about the dishonesty?

2 A. No, sir.

3 Q. Okay. Did you have -- did you convey  
4 that over to the chief when Decker told you that?

5 A. I'm sure at some point we had  
6 discussion. We either had private meetings,  
7 sometimes we'll discuss a case in an executive  
8 staff. So I don't remember what point, but at  
9 some point I'm sure we had some general discussion  
10 on that.

11 Q. Okay. What was it about what Decker  
12 told you that would have turned this into what you  
13 called a clear termination case?

14 A. Any untruthfulness in an administrative  
15 matter when you're under orders to answer  
16 questions truthfully, and that's just a hallmark  
17 of our profession. That turns it into a  
18 termination case.

19 Q. Okay. Was it Chief Jacobs' policy,  
20 written or unwritten or formal or informal, I  
21 guess, during her administration that any  
22 untruthfulness on duty was a termination offense?

23 A. I'm not going to say it's a policy. It  
24 is a standing practice that if we sustain

1       allegations of untruthfulness -- remember during  
2       the IA case, they're not sustained, there's an IAB  
3       investigator saying this is what I'm seeing. That  
4       investigator still has to connect the dots.

5       Here's what we know to be true, here's what the  
6       person reported, here's how we know it's false.

7       You have to connect those dots. It's a standing  
8       practice that when that happens, we're going to  
9       recommend termination.

10      Q.           Okay. Did you do anything in response  
11      to what Decker told you about the untruthfulness?

12      A.           The only thing I would have done is to  
13      tell him to keep pursuing that line and to make  
14      sure he can lay out in the investigation the --  
15      what we know to be factual and how we can prove  
16      it's factual, and what he said and how we can  
17      prove that's false. And as I recall reviewing the  
18      investigation, it wasn't as clear in the  
19      investigation as what I felt it needed to be to  
20      show A is true and B is false.

21      Q.           Okay. Was there consideration at that  
22      point when Decker told you about the  
23      untruthfulness that he believed was happening to  
24      take Moore off duty?

1       A.           Again, not a policy, but our practice  
2       is on untruthfulness, once an allegation is  
3       sustained, in many cases, in other cases once  
4       there's an actual department hearing, a divisional  
5       hearing, chief's hearing and a formal  
6       recommendation for termination, then we relieve of  
7       duty.

8       Q.           Okay. The document I showed you  
9       earlier, Plaintiff's Exhibit 10, I don't -- did  
10      you have an opportunity to read it when you --  
11      when I just showed it to you or did --

12      A.           I scanned the headlines on from the  
13      back to the front.

14      Q.           Can you take a look at the top of it  
15      where I think it's an e-mail from Cameron to  
16      Decker copying Chief Gray. Would you take a  
17      moment and read that and let me know when you're  
18      done.

19      A.           Yep. Yes, sir.

20      Q.           In that e-mail, Cameron is instructing  
21      Decker basically to keep him posted about any  
22      developments in the investigation that would  
23      warrant relieving Sergeant Moore of duty?

24      A.           It essentially says the same thing that

1 I said, that he's reporting A and B is accused to  
2 be untruthful. The lack of existing corroborating  
3 evidence. He's telling him to connect those dots.

4 Q. Right. But he's also saying, if you  
5 connect the dots at some point in your  
6 investigation, let me know and we can reconsider  
7 the decision to take him off duty on an interim  
8 basis?

9 A. Yes. How that typically works, again,  
10 is on an allegation that is -- of this nature and  
11 is dated, we are very careful, because we have  
12 other ongoing lawsuits right now about relieving  
13 officers of duty and putting in what others, we do  
14 not call the fish bowl, but there -- in a lawsuit  
15 it's alleging we put them in a fish bowl and  
16 they're suffering a career disadvantage. So we  
17 are very careful to make that determination only  
18 in the cases where we're extraordinarily  
19 confident, or the chief has already recommended  
20 termination.

21 So in this, he says should credible  
22 evidence develop supporting the alleged critical  
23 misconduct, advise me so I might reconsider this  
24 decision. When he says reconsider this decision,

1 I would assume that means that he's going to  
2 consult with his deputy chief and the chief of  
3 police to decide if we have enough strength to the  
4 allegation to potentially disrupt someone's  
5 career, cause a disadvantage to their career to do  
6 the right thing.

7 Q. Okay. Is fish bowl the same thing as  
8 580?

9 A. It is.

10 Q. Okay.

11 A. I do not call it fish bowl. I was  
12 repeating what others -- what the lawsuits allege  
13 and that's what it's referred to. But we as the  
14 patrol administrative office --

15 Q. Okay.

16 A. -- is where all restricted duty  
17 officers go for the most part and officers that  
18 are awaiting discipline outcomes.

19 Q. Okay. And there are other -- there are  
20 other options besides 580 if you have concerns  
21 about an officer's maintaining their duty status,  
22 like they can be put on administrative assignment,  
23 is that different?

24 A. They're all administrative assignments.

1 Q. Okay.

2 A. We -- by default, typically we'll  
3 assign to the patrol admin. Others who are in a  
4 restricted duty status for medical, let's say  
5 they're pregnant, they're going to be off duty  
6 for, just say nine months, whatever, we may place  
7 them at the academy or in another position where  
8 we have some consistent workflow for a nine-month  
9 period versus someone that may be there  
10 intermittently.

11 Q. Okay. You're familiar with an officer  
12 Melissa McFadden?

13 A. I am.

14 Q. Okay. Were you involved at all in  
15 her -- in the investigation of her that --

16 A. I was not.

17 Q. Okay. Were you aware of her -- there  
18 was a period of time, fairly lengthy period of  
19 time where she was assigned to the property room  
20 rather than her regular assignment?

21 A. Yes.

22 Q. It was because of some allegations that  
23 had been made against her?

24 A. Yes.



1 Q. How does that differ from the 580  
2 assignment?

3 A. I don't know what went into that  
4 decision. I was not privy to that. I don't know.  
5 Was not privy to that.

6 Q. Okay. But you were aware that you and  
7 other command officers have the option, at least,  
8 of reassigning officers to duties where they might  
9 not have a direct supervisory authority or  
10 wouldn't have contact with civilians, that kind of  
11 thing?

12 A. If they're relieved of duty, they do  
13 not have police or supervisory authority. And we  
14 make a decision on where to place them based on  
15 the needs and interests of the division and the  
16 membership. And those decisions are always  
17 subject to review.

18 Q. And I guess I'm just getting at  
19 something a little in between, because my  
20 understanding was McFadden was not actually  
21 relieved of duty, she was just reassigned to  
22 different duties. She still had her service  
23 weapon and things like that.

24 A. As -- and, again, I'm speaking based on

1     our general practice, because I don't know the  
2     specifics of that case. As a general practice, if  
3     someone's accused of misconduct and supervises  
4     that individual, then the accused must be moved to  
5     a different workstation so there is no ability to  
6     have impact on the other party.

7             In the -- to draw a comparison with the  
8     Eric Moore case, he was already in a different  
9     assignment in a different workstation, so that  
10    satisfied that. Where Lieutenant McFadden was  
11    overseeing the patrol sergeants and officers, so  
12    we have to move that person, just like we did  
13    Lieutenant Brian Lance and Sergeant Frencz when  
14    they had an allegation. We moved them out of  
15    their patrol assignment to another work location  
16    but did not relieve them of duty. So that's how  
17    that works as a general practice.

18    Q.             Okay. Going back to the update that  
19    you got from Ken Decker about alleged  
20    untruthfulness. Did you have any conversations  
21    with Jeff Lokai about what you had heard from  
22    Decker?

23    A.             It's possible at the time he was -- he  
24    was a grievance liaison. It's possible, but I

1 don't recall.

2 Q. Okay. And I'll jump back for a second.

3 In terms of 580 assignments or relief of duty,

4 there are concerns on both sides of that, right?

5 I mean, in terms of -- you would be concerned

6 about disrupting an officer's career for purposes

7 of grievance filing and things like that, but

8 there were also reasons to be concerned about

9 other -- other officers that might be affected by

10 their conduct or civilians that might be affected

11 by their conduct, the department might be affected

12 by their conduct if they remain on duty?

13 A. I apologize. Can you -- I did not

14 understand the question.

15 Q. That's fair.

16 You mentioned that you are very careful

17 as a department about removing people from active

18 duty with the CPD because of disciplinary

19 allegations and that the concern is --

20 A. Thoughtful decisions.

21 Q. Okay. All I'm getting at is: Is it

22 fair to say that -- well, let me ask it a

23 different way.

24 What is the purpose of relieving an

1 officer of duty?

2 A. Well, again, there's a difference  
3 between relieving an officer and moving an  
4 officer. You move an officer as you were  
5 describing with Lieutenant McFadden and others to  
6 make sure that the person is not continuing to  
7 have supervisory authority over the person who's  
8 accused them of wrongdoing. You relieve an  
9 officer of duty as typically an intervening action  
10 to safeguard the public or other officers while a  
11 case is investigated to determine if there's  
12 sufficient just cause to bring departmental  
13 charges or other action against that employee.

14 And not to disrupt you there, but you  
15 asked me to clarify anything I've said in the  
16 past. I thought of one thing I do want to  
17 clarify.

18 Q. Yes.

19 A. When you asked about e-mails, as I try  
20 to think back, I think what I was looking at was  
21 not e-mails, but a calendar that I was looking to  
22 see when I had -- usually like Ken Decker comes in  
23 my office, I would usually put a note on my  
24 calendar, I spoke to Ken Decker on this date and

1 time. Commander Curmode, C-U-R-M-O-D-E, so  
2 that's -- I believe when I was talking to Richard,  
3 I was looking at dates that I may have had  
4 interactions with either Sergeant Decker,  
5 Commander Curmode or Joe Echenrode. I think  
6 that's what I was looking for, not e-mails. Just  
7 to clarify my previous testimony.

8 Q. Okay. Then I will revise my previous  
9 request --

10 A. I understand.

11 Q. -- and say, if you can get that --  
12 those -- I don't know whether they're separate --

13 A. I can answer that.

14 Q. -- notations or whatever, but if you  
15 can get that calendar to Rich --

16 A. Yeah, I can answer that.

17 Q. -- so he can provide it.

18 A. I tried to look it up while we were  
19 having the meeting. I went to my desk and looked  
20 it up and could not find what I was looking for.

21 Q. Okay.

22 A. So that's the review I did. I looked  
23 up different comments where I maybe had an  
24 interaction with Curmode or Officer Shaw or

1 something. But they were based on a notation  
2 unrelated to the investigation, and I could not  
3 locate the one Decker that I recall, but I will  
4 look.

5 Q. Okay. So the e-mails that you  
6 described early on as the documents that you  
7 reviewed in preparation for the deposition, there  
8 were no e-mails?

9 A. There may be, I would have to look. I  
10 don't recall. But what I'm saying is what I was  
11 looking for is to try to confirm dates that I  
12 made -- I gave directions or had notification of  
13 certain issues, and I could not find -- because at  
14 the time I may make a note, but I may not -- I may  
15 say something generically, met with Commander  
16 Curmode on the investigation issue. But I may not  
17 say Shaw investigation or Moore investigation, I  
18 may have. Sometimes I do, sometimes I don't. I  
19 was trying to find it by a search for Moore's name  
20 or whatever and did not see it.

21 Q. Okay. So when you said that you  
22 reviewed documents to prepare for the deposition,  
23 you really just -- you looked through -- you  
24 looked for documents that might prepare you for

1 the deposition, but you didn't actually find any?

2 A. That's my recollection.

3 Q. Okay. About when did you do that?

4 A. It would have been within the last  
5 couple weeks that I met with Richard.

6 Q. Okay. And I just want to clarify  
7 whenever we're talking about that, I don't want to  
8 know anything that you --

9 A. I understand.

10 Q. -- talked about during that meeting.

11 A. I understand.

12 Q. That's all privileged stuff.

13 Okay. So that was -- before you  
14 remembered that, we were talking about the purpose  
15 of relieving. And, again, I'm separating it from  
16 what happened with McFadden and maybe other  
17 officers. When you're relieving an officer of  
18 duty, the purpose is -- one of the purposes is to  
19 protect the public and protect other officers.

20 What are you -- what are you protecting them from?

21 A. If there is an indication that there  
22 could be an immediate threat to the public or to  
23 an officer, then we may make that decision to  
24 relieve until we get enough facts to know one

1 direction or another.

2 In this case, as I recall, the -- the  
3 allegation that was brought to me was two or  
4 three years old at the time, or something to that  
5 effect. And there had been a continuing  
6 commingled work environment with no evidence of  
7 any hostility or action or derogatory interaction,  
8 so there was no reason to take an intervening  
9 action if there was no evidence that someone may  
10 be actually in harm versus speech versus action.

11 Q. A couple things, first of all, do you  
12 remember for sure how long before -- how long  
13 between when the statements that Moore made were  
14 made and when they were reported? You said a  
15 couple different times during the deposition that  
16 it was a period of years?

17 A. I don't recall. Because, again, we  
18 have so many things going on. Like I said,  
19 tentacles. We have Wes Sorrell making allegations  
20 about overtime abuse. We have another allegation  
21 that Joe Echenrode developed where there was  
22 allegations made of comments or derogatory or, if  
23 you will, racist comments. Those I don't remember  
24 the sequence of timing and when it was. But as I



1 recall, it had been a substantial time gap,  
2 whether it was weeks, months or years, there was a  
3 gap where there was no evidence since they were  
4 working in the same environment. Or currently  
5 when I found out if at that time Moore was already  
6 in a different work environment that there would  
7 be any opportunity for workplace violence, because  
8 they're not in the same workplace.

9 Q. Okay. But the reason I ask the  
10 question is that all the information that we've  
11 been provided that the comments took place in  
12 April of 2014 and the report was like August,  
13 September 2014.

14 A. Okay. That's possible.

15 Q. So that -- I just want to make sure  
16 you're not trying to dispute that.

17 A. I'm not trying to dispute. I'm saying  
18 I don't recall, because there's so many  
19 allegations coming from so many different angles.  
20 If it -- if going by your timetable, my thinking  
21 would have been, it's April, it's now September,  
22 they worked in the same work environment during  
23 that time, there's -- there may be speech that  
24 we're investigating, but there's clearly no

1 action, nothing had happened. So there's no  
2 imminent threat. Where if there was -- if someone  
3 said -- separate from this case, if someone came  
4 to me and said, that person needs to watch  
5 themselves, you know, I'm going to end this or  
6 something, as a future act, then that would be  
7 something I would want to take action on until we  
8 can get to the bottom of it. Because there's a  
9 belief that something may be imminently likely to  
10 occur. That was not the case here.

11 Q. Okay. And I'll address another thing  
12 that you said was about in the same working  
13 environment. Again, the information that we've  
14 been provided, it appeared that Sergeant Moore  
15 transferred to narcotics sometime in the spring of  
16 2014, so they wouldn't have still been working --  
17 there would not have been the kind of relationship  
18 that you're talking about where they continued  
19 working together peacefully over some additional  
20 period.

21 A. And that all seems to make sense.  
22 Because as I'm trying to refresh my memory, I  
23 think some of the allegations that Sorrell made,  
24 is that after he left SRB, he had taken equipment

1 with him and other things, and so that would  
2 refresh my memory that he had already moved to a  
3 new assignment with a new position when some of  
4 these things from the Sorrell allegations, to  
5 other individuals that say they overheard Moore  
6 make either racist or inflammatory comments, not  
7 directed at them personally, but to others about  
8 either Sergeant Williams or Officer Shaw or --

9 Q. Okay. And, again, this was not --  
10 you're sort of describing a thought process of  
11 somebody else, I guess, because you were not the  
12 person who would have been actually making the  
13 decision about whether to take Sergeant Moore off  
14 duty, because he wasn't in your chain of command.

15 A. Yeah. I guess I'm explaining that's  
16 how I would have processed it. Or if I consulted  
17 with another deputy chief, those would have been  
18 the issues that I would have been talking about.

19 Q. Okay.

20 A. Again, as I said, I don't remember the  
21 sequence of events. So as my memory is being  
22 refreshed through those dates, it would make sense  
23 that it would never have been my decision as an  
24 extreme circumstance to have made a decision to

1       relieve of duty. It may have been a discussion,  
2       but it would not have been an action I would have  
3       taken.

4       Q.           Okay. But as long as we're going into  
5       that thought process of whoever's thought process  
6       it would have been, there would be a concern,  
7       wouldn't there, for an officer like Sergeant  
8       Moore, who's got personal supervisory authority  
9       over officers of all different races and who  
10      has -- is directing investigations, narcotics  
11      investigations involving individuals of all  
12      different races, there would be a concern if there  
13      was an allegation that the department felt that  
14      would be sustained about discrimination, racial  
15      bias?

16     A.           I would --

17     Q.           Wouldn't there?

18     A.           I would look at it differently. I  
19      would say that the persons accused, no proof of,  
20      accused of and being investigated making -- to use  
21      your kind of setup -- threatening remarks.  
22      There's opportunity, and clearly nothing had  
23      occurred, so that would allow me to believe that  
24      this is just hyperbole or talk, not something a

1 person's actually contemplating.

2 Q. Okay. But putting aside the threats,  
3 he was also being accused of making racially  
4 discriminatory comments using the N word, using  
5 descriptions like monkeys or apes to describe  
6 black people, black officers. Calling black  
7 officers -- calling black people in general lazy.  
8 Wouldn't that by itself, without any of the  
9 threats, wouldn't that be -- itself be a concern  
10 for leaving an officer on duty in a position where  
11 they're supervising black officers? Where they're  
12 investigating black civilians? Wouldn't that pose  
13 a threat?

14 MR. COGLIANESE: Objection. Go ahead.

15 A. Sorry. I will use your words, there's  
16 an allegation. Again, there was no evidence of  
17 that and no current allegation that this was a  
18 realtime activity. This is something, according  
19 to this timeline, four, five, six months in  
20 advance. There was no concern that an immediate  
21 action needed to be taken without having facts to  
22 support it. Because, again, the contract requires  
23 us to -- that an employee not suffer a career  
24 disadvantage except for just cause.

1 Q. Okay. And I guess I'll go back to one  
2 of the purposes of relieving an officer of duty is  
3 in -- on an interim basis is that sometimes an  
4 officer is in a position to take actions during  
5 the course of an investigation that might not be  
6 easy to fix later basically; that you would want  
7 to prevent. And so the department decides in  
8 certain circumstances, even before an allegation  
9 is actually formally sustained, that if there's a  
10 certain level of evidence to support that conduct,  
11 you're going to take him off duty even while the  
12 investigation is going on?

13 A. What I said was if we have reason to  
14 believe, a reasonable belief that there is an  
15 imminent threat that we need to take an  
16 intervening action on, in this case, there was  
17 allegations from a third party who did not  
18 personally see or hear it, overheard it from  
19 another party about something that happened  
20 several months in the rear. And nothing had  
21 happened to act on those allegations, so we had no  
22 reason to believe it was more than idle,  
23 inappropriate, disciplinary worthy, chatter.

24 Q. Okay. And I want you to try -- I mean,

1 I'm asking you to sort of, again, even your  
2 descriptions of what happened in Moore's case in  
3 terms of taking him off duty or not taking him off  
4 duty. It's kind of a hypothetical scenario,  
5 because you're not the person -- from everything  
6 that said, you're not the person that made that  
7 decision.

8 A. Okay.

9 Q. I'm asking you to be a little bit more  
10 hypothetical than that. I'm talking about in  
11 general in terms of the decision-making process  
12 that you use and the decision-making process that  
13 the division in general uses for taking officers  
14 off duty. Putting aside Eric Moore -- not Eric  
15 Moore. I guess I'm asking whether what you're  
16 talking about in terms of imminent threats extends  
17 to things beyond threats to a person's physical  
18 safety and would extend to things like a threat  
19 that a command officer might not treat officers  
20 under their command appropriately or might not  
21 handle investigations of civilians appropriately.  
22 Isn't that a consideration that can come into play  
23 in taking an officer off duty?

24 MR. COGLIANESE: Objection. Go ahead.

1           A.           With the right information in realtime  
2           be made aware to parties in the chain of command,  
3           it may drive that action.

4           Q.           Okay.

5           A.           Again, in a third-party case, not this  
6           specific case, if I'm confronted with information  
7           that is relayed by someone else that overheard  
8           someone else and there's an allegation, I would  
9           wait until at least we had some corroboration  
10          that -- that there was some truth to the matter  
11          and that someone in the future may be impacted if  
12          we do not act.

13          Q.           Okay.

14          A.           And I did -- in any case I've been  
15          involved in, regardless of the case, I -- when I  
16          felt that, I took that action. If I did not have  
17          that knowledge, then I allowed the investigation  
18          to continue to unfold until we got to that point.

19          Q.           Okay. Let me give you a hypothetical  
20          scenario. And I'm not trying to represent to you  
21          that this happened in this case by any means,  
22          because I don't believe -- as far as I know, I  
23          don't believe it did.

24                       Let's say you've got a command officer,



1 sergeant or above, who's another officer, comes to  
2 you with an allegation they're making racially  
3 derogatory remarks about other officers or about a  
4 race in general. And I've got a recording of this  
5 officer making those remarks, this officer's using  
6 the N word, this officer's calling black people  
7 monkeys and apes, officer is saying that black  
8 people are lazy.

9           You've got a recording, so you know it  
10 seems like a reliable recording. You know that  
11 the officer did what they're accused of doing. Is  
12 that a situation where it would be justified to  
13 take the officer off duty while the investigation  
14 is proceeding?

15           MR. COGLIANESE: Objection. Go ahead.

16 A.           In your hypothetical, that would be  
17 information worthy serious consideration to take  
18 that action. But, again, it would be a  
19 case-by-case, fact-driven decision.

20 Q.           Okay. Is one of the reasons -- well,  
21 first of all, let me go back.

22           You took Sorrell off duty based on his  
23 admission that he had done something that might be  
24 considered criminal?

1 A. Yes.

2 Q. What's the threat there? What was  
3 the -- what would be the reason to take them off  
4 duty on an interim basis?

5 A. It's what's in the best interest of the  
6 division. If he self-admitted that he committed a  
7 crime, that would be a theft, a theft in office,  
8 theft of division equipment. That would be  
9 something I could foresee recommending termination  
10 for if the facts play out.

11 If I have that belief and I let him  
12 continue working and he gets into a shooting, for  
13 instance, of a citizen, and it comes out that I  
14 was planning on wanting to terminate this officer  
15 or recommend that, because of criminal conduct, if  
16 I continue to let that person work, and as a  
17 result this person ended up getting shot in an  
18 unrelated incident, then that could create  
19 liability for the city. And part of my position  
20 is try to limit the liability of the city.

21 Q. Okay. So even if the crime itself  
22 wasn't necessarily threatening to somebody's  
23 safety, because you basically could see a  
24 situation where the person should be fired as a

1 result of their admission, it puts the city in a  
2 liability situation that you would feel like they  
3 should be taken off duty while the investigation's  
4 going forward?

5 A. In the fact pattern as you laid out,  
6 yes. If it was a self-admission to a criminal  
7 act, it's not an allegation, then that's the time  
8 I would make a decision until -- which in this  
9 particular case, I did. I had a criminal  
10 investigation conducted. As soon as I was  
11 notified that this will not reach the level of  
12 criminal burden of proof, I returned the officer  
13 to duty.

14 Q. Okay. Who informed you that it  
15 wouldn't reach the level of criminal burden of  
16 proof?

17 A. It's the subdivision chain of command.  
18 I believe it was Deputy Chief Bash, but I believe  
19 the inquiry, the investigation was conducted by  
20 Sergeant Chris Bond.

21 Q. Okay. So it was an internal CPD  
22 determination?

23 A. Yes.

24 Q. Okay.

1 A. And that does not mean there's not an  
2 administrative wrongdoing. It means this doesn't  
3 reach the bar to file a criminal charge.

4 Q. Okay. Once -- but once it was  
5 determined that it didn't reach the bar of  
6 criminal charge, immediately Sorrell was placed  
7 back on duty?

8 A. Yes. Because, again, at that point, I  
9 don't have justification to have Officer Sorrell  
10 suffer career disadvantage without just cause.  
11 Because at that point, I'm being told he's not  
12 going to be criminally charged.

13 Q. Okay. Putting aside the criminal  
14 nature of -- of the issue, the principle would  
15 still apply that if you feel like you've got a  
16 self-admission of what would qualify as critical  
17 misconduct that is likely to result in  
18 termination, there's still going to be a basis to  
19 take the person off duty?

20 MR. COGLIANESE: Objection. Go ahead.

21 A. No. The -- once the criminal aspect of  
22 it has been removed, then the administrative  
23 investigation will be conducted to determine  
24 policy violation, not legal violations. If a

1 policy violation is sustained and heard in a  
2 departmental hearing by a -- by the chief, who has  
3 the authority to recommend termination, if she, at  
4 that time, would recommend termination on that,  
5 then, again, termination would be on the table.  
6 He would have been relieved of duty.

7 In the meantime, we did not have  
8 sufficient grounds to have him, in the FOP's view,  
9 suffer career disadvantage without just cause.  
10 Nothing had been sustained at that point.

11 Q. Okay.

12 A. It was a mere admin allegation.

13 Q. Was there some intervention by the FOP  
14 to get Sorrell put back on duty, or was that just  
15 basically once the criminal charge was not being  
16 pursued?

17 A. I would say they probably -- I'm just  
18 spit balling this, probably called weekly or  
19 biweekly to say, what's going on with the criminal  
20 case?

21 Q. Okay. Did that factor in to your  
22 determination to put him back on duty? Or was it  
23 just that would have been your decision even  
24 without the FOP's involvement?

1           A.           That would have been a decision -- once  
2           I was told there was no criminal going to be  
3           filed, that would have been my decision whether  
4           they ever talked to me.

5           Q.           Okay. If you've got an investigation  
6           going on and you -- well, I'm -- I don't mean you.  
7           If there's an investigation, an internal affairs  
8           investigation going on after an officer who's  
9           within your chain of command and information comes  
10          to your attention that the officer's doing  
11          something to interfere with the investigation or  
12          retaliate against officers who are involved in the  
13          investigation, would that be a reason to consider  
14          taking them off duty?

15                   MR. COGLIANESE: Objection. Go ahead.

16          A.           I'll repeat my previous answer. It  
17          would be a reason or a justification, but it,  
18          again, would be fact driven.

19          Q.           Okay. Meaning you would have to be  
20          very confident that it had happened?

21          A.           Not necessarily confident that it  
22          happened. I would have to be briefed on what the  
23          investigation -- what facts were known, and if  
24          there's an ongoing threat or if there's a concern

1 for liability to the city if we do not take some  
2 intervening action until the case was resolved.

3 Q. So integrity of the investigation would  
4 not be a basis for taking somebody off duty if  
5 they're using their command authority as a command  
6 officer, at least to interfere with the  
7 investigation that's going on?

8 MR. COGLIANESE: Objection. Go ahead.

9 A. I will repeat the previous answer. It  
10 would be a justification, but it would have to be  
11 based on the specific facts known, not arbitrary  
12 or capricious.

13 Q. Okay. I guess I'm just trying to  
14 figure out what the specific facts would have to  
15 be to get to the point where you would consider  
16 taking somebody off duty for interfering with an  
17 investigation?

18 A. That's -- I guess what I'm trying to  
19 explain is that every individual case is fact  
20 specific. And until you look at the facts known  
21 in that case or the facts are being revealed in  
22 that case at that point in time, you won't know.  
23 It is not a policy or something you can use a  
24 checklist on. It is specifically driven by what

1 we know at the time and what we feel is the right  
2 thing to do.

3 Q. So case by case is what you're trying  
4 to say?

5 A. That would be a shorter way of saying  
6 it.

7 Q. Okay. Did Chief Jacobs -- and I think  
8 we'll take a break in a couple minutes.

9 A. That's fine. Use the bathroom real  
10 quick.

11 Q. Just figure this -- you know what, I  
12 should have said this at the beginning, but this  
13 is not an endurance contest.

14 A. Oh, I know.

15 Q. I know we are trying to cover a lot of  
16 ground before you have to go.

17 A. I know. I respect that.

18 Q. But if you need a break at any point --

19 A. I can wait a few minutes --

20 Q. -- just tell me.

21 A. -- just to get rid of some water.

22 Q. Okay. All I was going to ask is did  
23 Chief Jacobs at any point instruct you during this  
24 investigation to keep tabs of what was happening



1 in the investigation so she could make a  
2 determination of whether to keep Sergeant Moore on  
3 duty or not?

4 A. I can't say yes or no. I don't  
5 specifically recall either way.

6 Q. Okay. Did she instruct you to do  
7 anything with respect to this investigation?

8 A. Let me answer it this way: Please keep  
9 in mind there are multiple investigations going  
10 on. What direction she gave me on this specific  
11 case versus the five, six, seven, ten others that  
12 were balancing and juggling at the same time, I  
13 can't say --

14 Q. Okay.

15 A. -- as I sit here today.

16 MR. VARDARO: All right. We'll leave  
17 that as a stopping point for a break.

18 (A recess is taken.)

19 Q. I have a general question about what I  
20 was just asking you about, which is Chief Jacobs  
21 and her oversight of you during this investigation  
22 process, which is: During the time that you were  
23 deputy chief for Chief Jacobs, what was her  
24 approach to ongoing internal affairs

1 investigations? Did she get updates? Did she  
2 want to know what was going on with particularly  
3 large or serious investigations?

4 A. Since internal affairs was a direct  
5 report to the chief, you would have to ask her,  
6 because I don't know -- I was not included in this  
7 loop.

8 Q. Okay. Even when it was an  
9 investigation of an officer in your chain?

10 A. What she did with people that were  
11 direct reports to her, I don't know. She would  
12 have talked directly to internal affairs. If she  
13 did that, she would not have come to me as the  
14 deputy chief, even if it was my chain of command,  
15 because I didn't know what was going on typically.  
16 Because, again, I said I tried to stay neutral and  
17 disinterested in it. So the investigation wasn't  
18 impeded or interfered with or trying to steer it.

19 Q. Okay. There was a -- part of this  
20 obviously was an allegation that Eric Moore had  
21 threatened the life of a couple different black  
22 officers while he was in SRB, one of who was Eric  
23 Cornett. Do you remember that?

24 A. I don't remember the exact wording.

1 When you said threatening life, I don't remember  
2 what the phrase was.

3 Q. Well, I -- I mean, I'll just represent  
4 to you the phrase as it was described in the  
5 original report was that he needed to -- referring  
6 to Eric Cornett and Doug Williams, that he needed  
7 to, quote, take their monkey asses out back and  
8 kill them.

9 A. I don't remember.

10 MR. COGLIANESE: Objection.

11 Q. It's not material to my question.

12 A. Okay.

13 Q. You remember there was a threat against  
14 two black officers as part of this investigation?  
15 That was the allegation?

16 A. The allegation was -- I don't remember  
17 the word "kill" being used, but I -- I don't  
18 remember that. It's been awhile.

19 Q. Okay.

20 A. But there was a threat -- or some could  
21 interpret as a threat.

22 Q. And strictly I'm asking you this as the  
23 background to the real question I want to ask,  
24 which is: Do you remember that one of the

1 officers who was threatened in some way was Eric  
2 Cornett?

3 A. I believe so. I don't specifically  
4 recall the details, but I believe so.

5 Q. Right. And that may be an answer to  
6 the next question I have. Do you remember at some  
7 point Eric Cornett asked to speak with Chief  
8 Jacobs about the threat that he had learned had  
9 been made against him?

10 A. Sounds vaguely familiar, but I don't  
11 recall the specifics.

12 Q. Okay. Do you remember one way or the  
13 other if you actually had a conversation with Eric  
14 Cornett about the threat and his request to speak  
15 with Chief Jacobs?

16 A. I may have, but I don't recall the  
17 specifics.

18 Q. Okay. And that as part of that Eric --  
19 you actually were in a phone call with Eric  
20 Cornett where you then put Chief Jacobs on the  
21 line and talked to him about the threat and the  
22 precautions that were being taken?

23 A. It's quite -- I'm sorry.

24 Q. Your safety is also important to us, so

1 I do want to make sure you don't choke in the  
2 middle of the deposition. I would feel  
3 responsible for that.

4 A. I apologize.

5 That certainly sounds familiar.

6 Q. Okay.

7 A. That certainly sounds familiar.

8 Q. What would have been the circumstance  
9 there where an officer was asking to speak to the  
10 chief about something like that and you would have  
11 been involved in it?

12 A. By policy, any officer is allowed to  
13 request to speak to the chief. It's up to the  
14 chief whether to grant the request.

15 Q. Okay. But why would the deputy chief  
16 be involved in that?

17 A. The request must go through the chain  
18 of command.

19 Q. Okay. All right. And then the  
20 other -- the other question I have about Chief  
21 Jacobs in this investigation is there was a --  
22 there was a point during this process where  
23 Sergeant Decker had asked for permission to do a  
24 polygraph examination of Sergeant Moore regarding

1 a couple of different allegations that Officer  
2 Sorrell had made?

3 A. He may have.

4 Q. Were you involved at all in determining  
5 whether or not a polygraph would be conducted?

6 A. Not that I recall. The -- that's  
7 typically something the chief, by contract, has to  
8 order.

9 Q. Okay. And I -- we do have records  
10 indicating that Chief Jacobs told Commander Knight  
11 that there would be no polygraph authorized in  
12 this situation, and so I'm just trying to refresh  
13 your recollection as to whether or not you were  
14 involved in any discussions with the chief about  
15 that?

16 A. Not that I recall.

17 Q. Okay. At the conclusion of this  
18 investigation, your -- well, first of all, as a  
19 general matter, any time -- any time there's a  
20 disciplinary charge against somebody or  
21 departmental charges, I'm actual -- maybe you can  
22 clarify for me. What is the deputy chief's role  
23 in reviewing a completed internal affairs  
24 investigation?

1       A.           The role of the deputy chief is to make  
2       a final disposition of whether the allegation is  
3       sustained or not. And if it is sustained, what  
4       level discipline should occur. If it is anything  
5       above what's called documented constructive  
6       counseling, the deputy chief must take it to the  
7       chief of police and get permission to issue a  
8       written reprimand or file departmental charges.  
9       The professional standards bureau lieutenant will  
10      decide what charges will be filed.

11      Q.           Okay. And we've seen documents in this  
12      case indicating that you were the deputy chief who  
13      made those determinations with respect to the Eric  
14      Moore, Wes Sorrell investigation?

15      A.           Okay.

16      Q.           Does that sound right?

17      A.           I -- partially. I would have only made  
18      decisions on the disposition for the allegation  
19      that occurred while under my chain of command. I  
20      recall there was some additional allegations made  
21      under the narcotics chain of command and I  
22      forwarded it to that chain of command to decide on  
23      those issues.

24      Q.           I'm handing you what's been previously

1 marked -- what's previously been marked as  
2 Plaintiff's Exhibit 41, which is a number of  
3 collected documents about this investigation at  
4 the conclusion of it. And I want you to turn  
5 particularly to the last few pages, which -- which  
6 is -- well, at the -- actually the last, let's say  
7 seven pages of this are a memo addressed to you  
8 from Commander Knight dated September 28th, 2015?

9 A. Curmode you mean?

10 Q. No, from Commander Knight.

11 MR. COGLIANESE: Which page are you on?

12 Q. It's -- there are Bates stamp -- thank  
13 you, Rich.

14 It's starting on Bates stamped pages  
15 014421?

16 A. Yes. I have it now, sir.

17 Q. At the end of the document, the very  
18 last page of Exhibit 41, Bates stamped page  
19 014427, it says, deputy chief signature, and I  
20 assume that's your signature?

21 A. Yes.

22 Q. And throughout that document, there are  
23 handwritten notes next to deputy chief's  
24 determination.



1 A. Okay.

2 Q. And I want you to go through this  
3 document and tell me if there's any other deputy  
4 chief that you see making any determinations on  
5 these charges?

6 A. Not on these -- I'm sorry, there is.  
7 Okay. You want me to go through them from the  
8 beginning?

9 Q. Yeah. I think -- I think we need to do  
10 that in this situation unless you -- well, I guess  
11 I'll direct you to a couple particular ones.  
12 There's allegations numbered Roman numerals I  
13 through XXI against Eric Moore.

14 MR. COGLIANESE: Just objection for  
15 purposes of the record. And the pages that you're  
16 pointing him to actually start in allegation  
17 three.

18 Q. Oh, interesting. Sure. Let's go with  
19 there's -- there's Roman numerals of charges that  
20 refer to Eric Moore, and the earliest one, as Rich  
21 points out, seems to be allegation three, and then  
22 it goes all the way up through allegation 21 on  
23 page 5 of the document.

24 A. Let me look back for a second at

1 something else.

2 MR. COGLIANESE: And, again, just for  
3 purposes of the record, actually there are some  
4 numbers that are skipped in there as well.

5 Q. Does it -- just to clarify this, would  
6 it match your recollection and what you're seeing  
7 in this document that these allegations are  
8 grouped against three different officers, Moore,  
9 Sorrell, Kemmerling like we talked about earlier?  
10 And they are somewhat out of order because they're  
11 grouped by which officer they're against rather  
12 than put in numerical order?

13 A. That would be correct.

14 Q. Okay. Like allegations 1 and 2 are  
15 against -- 1, 2, 11, 13 and 18 are against  
16 Sorrell?

17 A. That is correct.

18 Q. Allegation 15 is against Kemmerling?

19 A. Yes.

20 Q. And then all the rest of them are  
21 against Moore?

22 A. Yes.

23 Q. And all of that is a long windup to  
24 saying, there's some allegations on the fifth page

1 of this portion of the document, Bates stamp  
2 014425, allegation 20 has to do with Eric Moore  
3 not following an order from Commander Cameron?

4 A. Yes.

5 Q. And then the page before that there's  
6 allegation 19 that says Eric Moore did not fairly  
7 and equitably fill a narcotics bureau assignment  
8 vacancy?

9 A. Correct.

10 Q. And I guess I'm trying to figure out,  
11 is it -- there's a -- there's some initials there?

12 A. Yes.

13 Q. Are those your initials?

14 A. No.

15 Q. Whose initials are they?

16 A. Can't tell, but it would be somebody in  
17 the narcotics chain of command.

18 Q. Is it possible it would be Deputy Chief  
19 Gray or would it be somebody else?

20 A. I see Terry Moore on here. If he was  
21 acting deputy chief, it could have been Terry  
22 Moore. Looking at the initial -- the initials,  
23 doesn't look like it would be Gray. Could have  
24 been Mike Woods. I don't know if that's a W. I

1 don't know.

2 But, again, those were allegations that  
3 were in a different chain of command, so I ruled  
4 on -- as I recall it, I ruled on the ones that you  
5 see my handwriting and I signed off on. And then  
6 I handed the entire case over to the narcotics  
7 chain of command, which I believe was possibly  
8 Mike Woods at that point, and that he made the  
9 final dispositions on those that occurred while  
10 assigned under his command.

11 Q. Okay. And after you signed this  
12 document for the -- I mean, was this forwarded to  
13 Chief Jacobs?

14 A. No.

15 Q. What happens after you sign this  
16 document?

17 A. So the deputy chief makes the decision  
18 on whether the policy violation occurred. As the  
19 allegation specified, you know, 7, 8, 9. If we  
20 sustain it -- if the deputy chief sustains it, the  
21 deputy chief would identify which rule of conduct  
22 or work rule is being cited. And then they'll  
23 decide what the level of charge -- what the level  
24 of discipline is.

1           If it's a DCC, as you see on some of  
2 these, they're allowed to make that decision at  
3 their level. Or if it's a written reprimand as a  
4 result of progressive discipline, they can issue a  
5 written reprimand. If it's bypass and progressive  
6 and going to a written or a departmental charges,  
7 it must go to the chief of police. Which if you  
8 notice on the back sheet, 014408 of the routing  
9 sheet, it states that I have discussed this with  
10 the chief at executive staff and with PSB on  
11 different occasions, the last one being 2/25/16,  
12 and the chief approved bypassing progressive  
13 discipline and filing departmental charges as  
14 noted. And then I forward it to professional  
15 standards to have them create the charges and  
16 specifications.

17 Q.           Okay.

18 A.           That's the process.

19 Q.           All right. And it's possible that it's  
20 in some document that I'm not seeing, but the --  
21 can you tell from the routing sheet at the front  
22 of this Plaintiff's Exhibit 41, the first page and  
23 the attachment on the back, was this routing sheet  
24 strictly about the -- the SRB faced charges

1 against Moore and Sorrell and Kemmerling or did  
2 this cover the whole investigation, including the  
3 stuff that happened while Moore was in narcotics?

4 A. This appears that it would have been  
5 inclusive of both chains of command investigation  
6 findings, because it has Commander Curmode's  
7 letter outlining the allegations pertinent to that  
8 chain of command, and Lieutenant Brust's letter  
9 outlining the allegations unique to the narcotics  
10 chain of command.

11 Q. Okay. And same question as before: Do  
12 you see any other deputy chief's signature on here  
13 or initials or comments?

14 A. I see the initials on the cover sheet  
15 from IAB that we already discussed.

16 Q. I'm sorry, did you say you do or you  
17 don't see initials?

18 A. I said on the cover -- this is called  
19 the cover sheet.

20 Q. Oh, I see.

21 A. So this is -- this has the initials on  
22 the 19 and 20 allegations. That's a different  
23 chain of command. And I'm reasonably certain that  
24 would have been Mike Woods, because as you notice

1 here, it goes through Lieutenant Brust and  
2 Commander Terry Moore, just like it went through  
3 Commander Curmode, then to me. Because it goes  
4 through the other chain -- through the commanders,  
5 then to me. I sent it over to PSB for a just  
6 cause review. They confirmed just cause. I took  
7 it to the chief, she approved departmental  
8 charges. And that's where I made my final finding  
9 on here.

10 So what -- what I would have assumed  
11 happened just based on practice with other cases  
12 is I ruled on mine, sent it over to the chain.  
13 The deputy chief there has a routing sheet that  
14 shows what the lieutenant and the commander wanted  
15 and signed off on it, on the allegation pertinent  
16 to that chain of command to make the ruling for  
17 that chain of command.

18 And, again, I certainly would have  
19 preferred that there either be initials and a  
20 badge number or a name legible. But in this case,  
21 there's not. That doesn't make it any less  
22 binding that the -- that they go to a different  
23 chain of command. You can clearly see it's  
24 different handwriting than anybody else's. You

1 can see Terry Moore's handwriting on here, you can  
2 see Lieutenant Brust's handwriting, Commander  
3 Curmode's and mine. Clearly somebody else's  
4 handwriting, probably Deputy Chief Woods or  
5 possibly Gray, but I don't think so. And -- well,  
6 this actually didn't come through until 2016, so  
7 it would have been Mike Woods.

8 So he signed off on his portion,  
9 returned it to me, and that's when I took it to  
10 the chief. Because his, if you notice, both the  
11 ones he signed off on the DCC on the two  
12 allegations, which he had the authority to issue  
13 at his level without chief of police review and  
14 approval. So he ordered the DCCs, and that was  
15 the final disposition. No further review needed  
16 on those allegations. He had the authority to  
17 issue the DCC. The only thing that needed to go  
18 to the chief were my allegations that I sustained  
19 and wanted departmental charges on.

20 Q. Okay. Certainly in a case where the  
21 deputy chief approves a DCC, if the chief's got it  
22 in front of her, she's got the authority to say, I  
23 want you to look at this harder and think about  
24 departmental charges on this?



1 A. She has the authority to do that.

2 Q. Okay. I mean, you've seen cases where  
3 she did that?

4 A. I have, yes.

5 Q. Okay.

6 A. Yeah.

7 Q. And that by itself was not in those  
8 cases that you saw, it wasn't like the FOP could  
9 just come in and say, no, the chief overruled the  
10 deputy chief on the DCC and took it to  
11 departmental charges and so we're grieving it just  
12 on that basis?

13 A. What I can say -- I'm not really clear  
14 exactly on the question, but what I can say, and  
15 you can correct me if I'm misinterpreting the  
16 question, is that the deputy chief on allegation  
17 19 and 20 would have conferred, in all likelihood,  
18 with Lieutenant Lokai and made sure that the  
19 comparables for this violation would have been  
20 supported by this level of discipline.

21 And if he, I assume, got confirmation  
22 of that, because he did rule that way if the  
23 lieutenant said, no, no, no, this has to go to  
24 departmental charges, then I'm assuming he would

1 have sent that to the chief.

2 Q. Okay. We talked a little bit about at  
3 the very beginning actually about -- well, maybe  
4 not the very beginning, we talked about Sergeant  
5 Decker's belief that Sergeant Moore was untruthful  
6 to him during the investigation about the subject  
7 matter of the investigation and --

8 A. (Indicates affirmatively.)

9 MR. COGLIANESE: Yes?

10 A. Yes.

11 Q. -- some of the -- actually, all of that  
12 alleged untruthfulness that Sergeant Decker  
13 believed he had found occurred while Sergeant  
14 Moore was in the narcotics chain of command,  
15 because the investigation didn't even start until  
16 after he left SRB, right?

17 A. I'm not -- I have to think through  
18 exactly the sequence.

19 Q. I'll withdraw the question.

20 But I will represent to you none of  
21 this investigative activity happened until  
22 Sergeant Moore was in narcotics. And he certainly  
23 wasn't interviewed by Ken Decker until he was in  
24 narcotics, right?

1 A. Yes. What I can say is I don't know  
2 if -- without looking in more detail whether he  
3 was charged with lying to internal affairs that  
4 occurred while he was assigned then to that chain  
5 of command or if the untruthfulness were limited  
6 to the unique allegations that were predated that.

7 Q. Well, what Decker was telling you in  
8 the meeting that you described at headquarters was  
9 what was that he was being lied to by Sergeant  
10 Moore, basically every word out of his mouth was a  
11 lie in the interviews that he conducted.

12 A. As I recall, yes.

13 Q. And I guess I'm just asking you sort of  
14 a jurisdictional technical question, which is:  
15 Sergeant Moore was in narcotics at the time that  
16 he was allegedly lying to Ken Decker. So my  
17 question is: Would that have been considered a  
18 narcotics issue or an SRB issue?

19 A. If the chief directed internal affairs,  
20 which she had direct supervisory oversight on, to  
21 make that a new allegation, that would have been  
22 dispositioned by narcotics --

23 Q. Okay.

24 A. -- not me, because the lie occurred at

1       that time.

2       Q.           Okay. And if you take a look at 41 --  
3       Exhibit 41, the last -- I think it's on page --  
4       page 3 of that cover sheet, it's 014423 at the  
5       bottom.

6       A.           Yes.

7       Q.           Allegation 9 is that Sergeant Eric  
8       Moore was deceptive during the internal affairs  
9       investigation.

10      A.           Yes.

11      Q.           And you have -- I think it's your  
12      handwriting --

13      A.           Yes.

14      Q.           -- that says sustained and there's no  
15      initials?

16      A.           Correct.

17      Q.           So that's your finding?

18      A.           Yes.

19      Q.           Can you explain why you would have been  
20      the one to make that finding considering that, you  
21      know, by its nature, that conduct occurred while  
22      he was outside of your chain of command?

23      A.           Again, it was a complex investigation.  
24      What happened here was I directed the

1 investigation into allegations A. He lied about  
2 the specific information being asked about  
3 allegations A during his time in SRB. And that's  
4 what he was lying about. So it came to me to  
5 decide whether -- whether he was going to be  
6 charged with untruthfulness about the original  
7 investigation.

8 Q. I'm not sure I completely understood  
9 that.

10 You're saying basically because the  
11 allegations that he was found to have lied about  
12 were allegations involving SRB, it was under your  
13 authority to sustain or not sustain those  
14 allegations?

15 A. Either chain of command, in essence,  
16 we're both the same rank, could have made that  
17 decision. What the lie was about, although in a  
18 different chain of command, we typically send  
19 everything that stems from time you're in one  
20 chain of command, everything related, encapsulated  
21 by that comes back to the chain of command where  
22 it occurred at the time. The allegations that  
23 occurred while he was in narcotics were  
24 allegations that narcotics chain of command rules

1 on.

2 If you lie about the conduct or the  
3 information you provide is untruthful about what  
4 you're being investigated for that I directed the  
5 investigation to occur, it would come back to me  
6 to make that determination.

7 Q. Okay. Do you remember what it was that  
8 Eric -- that you sustained Eric Moore lying about?

9 A. That was one of the issues that I had  
10 concerns on the investigation is that it was  
11 difficult to connect the dots. So one of the  
12 things I think the arbitrator ultimately ruled on,  
13 I don't remember the arbitration decision, but it  
14 wasn't the facts are -- that that water bottle is  
15 unopened and he said the water bottle was half  
16 empty, that would be -- you could connect the dots  
17 and say, that's a lie, you know that.

18 I don't remember that we were able to  
19 show concretely how we could show that was a lie.  
20 We just knew it to be untrue to the satisfaction  
21 clear and convincing to an arbitrator.

22 Q. Do you remember what the subject matter  
23 was, though?

24 A. I don't. Like I said, everything that

1 he was asked was a spin, if you will, that's not  
2 truthful. I wasn't in the IA interviews, so I  
3 don't recall that, but I was in on the chief's  
4 hearing. And in the chief's hearing, everything  
5 he said was not believable.

6 So that's where I could understand why  
7 it was so confusing. That we're trying to ask  
8 about this, we know this to be true, not because  
9 he's saying the opposite, he's given some  
10 explanation why that bottle would look half empty  
11 to him. We know it's not, but in his mind, it was  
12 so convoluted, we knew he wasn't being open and  
13 honest. But it was hard to show that it was a  
14 concrete lie.

15 Q. Okay. Can you tell me what your  
16 process was in drawing the conclusions that you  
17 drew on these allegations once Decker presented  
18 them to you?

19 A. Process was to read the investigation,  
20 formulate a general understanding of what we can  
21 corroborate, send it to professional standards,  
22 have the just cause review done, which is the  
23 seven steps I discussed. And which the key one  
24 there is to make sure there's proof of the

1 allegation.

2           They advise me on what they feel the  
3 charges should be. Like some of these that you  
4 notice on Eric Moore, and this was key on  
5 allegation 9 that you mentioned, Sergeant Eric  
6 Moore was deceptive during an internal affairs  
7 investigation. I sustained it, but internal  
8 affairs recommended rule conduct 1.15(a)5, which  
9 is requirement to be truthful at all times. As  
10 you see, I changed it to rule of conduct 1.36,  
11 which is unbecoming conduct.

12           We -- because his answers were so  
13 unintelligible, I don't know how else to say it,  
14 we could not say we know A to be true, he said B,  
15 we can prove B is false. It was so convoluted,  
16 the best we could say is he was impeding the  
17 investigation by not giving direct answers. So  
18 that's unbecoming conduct.

19 Q.           Okay. And I just want to step back to  
20 the question, because you answered it and then you  
21 gave me an example, but I want to step back to the  
22 answer. You said the first step was to read the  
23 investigation. The investigation materials, as I  
24 understand them from Sergeant Decker, consisted of



1 first the IAB summary, which was something like  
2 200 pages long by itself?

3 A. Yes.

4 Q. I see an eye roll there.

5 A. Yes.

6 Q. So we'll get into that in a second.

7 That it also had, as I think you  
8 referenced earlier, probably a thousand pages or  
9 more of supporting materials?

10 A. Correct.

11 Q. And I just want to get a sense of what  
12 of that you actually looked at in reaching these  
13 conclusions.

14 A. I would have looked at all of it  
15 scanning for information that was pertinent to the  
16 allegations I'm trying to decide on. That's not  
17 to say I would have read every verbatim  
18 transcript. I would have looked at this portion  
19 of the IAB summary, and if there's page references  
20 in there, if there's something I wanted to see  
21 what the full context was, maybe what the  
22 statement was before or after it, I would go and  
23 read that section of the transcript to make sure  
24 it was not being mischaracterized.

1 Q. Okay. Did you find any instances where  
2 you felt like Sergeant Decker had mischaracterized  
3 his -- what he wrote in the summary?

4 A. Again, I did not find what I thought to  
5 be mischaracterizations. I felt his frustration,  
6 where you could not get a straight, intelligible  
7 answer from the sergeant, which means, in my  
8 opinion, he was impeding the investigation.

9 Q. Okay. Obviously the 208-page  
10 investigative summary consisted of some  
11 allegations under your chain of command and some  
12 allegations that were not. Did you skip the  
13 allegations that were not in your chain of command  
14 or did you read them for context? Or did you do  
15 something in between those things? What did you  
16 do?

17 A. The summary, then I read the context of  
18 a full appreciation of what was discovered. My  
19 decision-making would have been based on those  
20 that I had authority over.

21 Q. Okay. Is it fair to say that there are  
22 some investigations where you might treat an  
23 allegation, a particular allegation differently  
24 because of the surrounding allegations? Like if

1       there's a pattern of conduct, it might make it  
2       more serious than if it's just one isolated  
3       incident?

4       A.           That's possible to happen.

5       Q.           Okay. The --

6                   THE WITNESS: Can I go off the record  
7       for one second?

8       Q.           Is there some reason we need to go off  
9       the record?

10      A.           I'm sorry, I -- can I go off the  
11     record?

12                   MR. VARDARO: Sure.

13                   (A discussion is held off the record.)

14      Q.           Is it -- I'll try to ask my last  
15     question in a clearer way.

16                   Actually, you -- I think you answered  
17     it. So in a wide-ranging investigation like this  
18     one, it -- I think it would be -- it would have  
19     been maybe unwise for you not to read the whole  
20     investigation so that you could at least see  
21     whether maybe some of the things that Sergeant  
22     Moore was being accused of in SRB had either  
23     carried over into narcotics or were part of a  
24     pattern that crossed over both chains of command,

1 so it -- I mean, does that make sense?

2 A. I would say that I reviewed it at the  
3 time enough to have a flavor of or a good feeling  
4 of what the gravity of the misconduct was.

5 Q. Okay. In -- did you listen to any of  
6 the interviews?

7 A. Not the -- not the verbal --

8 Q. Okay.

9 A. -- recording.

10 Q. Okay. But you read some of the  
11 interview summaries just to spot check?

12 A. Yes, I did.

13 Q. Okay. Did you review any of the other  
14 supporting materials, documents about equipment  
15 and things like that?

16 A. As I said, I reviewed everything that  
17 was encompassing the investigation. To the level  
18 that I read through word for word, I can't state  
19 that that occurred. Because there was a lot of  
20 documents that are -- that you recognize them on  
21 their face what they are and know that there's not  
22 something there that you have to dial down into.

23 Q. Okay. You mentioned in your note on  
24 the routing sheet that's in Exhibit 41 that you

1 had executive staff discussions of this case?

2 A. Yes, sir.

3 Q. Would that have included the deputy  
4 chief over narcotics as well --

5 A. Yes.

6 Q. -- as --

7 A. Yes, sir.

8 Q. Okay. And it would also have included  
9 the chief?

10 A. Yes.

11 Q. And professional standards?

12 A. The commander of professional standards  
13 is present. The discipline grievance liaison  
14 lieutenant is not.

15 Q. Okay. Who was the commander of PSB?

16 A. Commander Kelly Weiner. In 2016 it  
17 probably was Commander Weiner, but I don't recall.  
18 We've had -- Commander Moore was at one point  
19 before he went to narcotics, I believe. I don't  
20 remember, though, the changes.

21 Q. Okay. Was part of the discussion in  
22 the executive staff about this case which charges  
23 would or would not be escalated to departmental  
24 charges?

1 A. No.

2 Q. Okay. What was the -- go ahead.

3 A. Basically what the discussion is is  
4 I've received the case, I reviewed it, I've sent  
5 it to professional standards for a just cause  
6 review. They found just cause for the sustained  
7 allegations that would -- that I would request  
8 departmental charges for, because they're critical  
9 misconduct.

10 The chief may ask some questions where  
11 I give her a general update on what the nature of  
12 it is. And, I mean, this would all occur in five  
13 minutes. And then she would say, go ahead and  
14 file departmental charges. It's up to the  
15 discipline grievance liaison lieutenant to  
16 actually craft the charges by charge and  
17 specification, bring it to me to look at and make  
18 some language suggestions or changes if I see  
19 anything. And then once it's finalized, they take  
20 it to the chief for a hearing date and a  
21 signature.

22 Q. Okay. Sergeant Decker indicated to us  
23 that there was a draft of his investigation prior  
24 to the one that was forwarded to the chain of

1 command, and it was probably another 100 pages  
2 beyond the 200-page summary.

3 A. Okay.

4 Q. Did you see the longer draft?

5 A. I remember having a conversation -- I  
6 don't know that I saw it. I believe Commander  
7 Knight, in her role of reviewing it, directed him  
8 to streamline it. And, in fact, because you asked  
9 me this question before, it's entirely possible --  
10 again, it's just hard to remember five years ago,  
11 but it's entirely possible I had a conversation  
12 with Commander Knight about concerns I had about  
13 the packet prepared by Sergeant Decker. And that  
14 she told him to pare it down, because I remember  
15 having a conversation, as I said, I remember  
16 sitting in my office across from my desk and  
17 telling him that the problem we need is we know A  
18 to be true, he said B, here's how we can prove B  
19 is a lie to charge him with untruthfulness.

20 That's the reason I ultimately went  
21 with unbecoming conduct versus untruthfulness.  
22 The investigation -- I tried to explain to  
23 Sergeant Decker that the investigation, more is  
24 not always better, I guess is the easiest way to

1 say it. 200 pages, 300 pages doesn't always sum  
2 up what could be maybe said in 25 pages, so to  
3 speak. It's who reads verbatim 200 pages when you  
4 have everything else on your desk at the same  
5 time? You look for -- I don't want to go into a  
6 lot of detail. I usually try to tell anybody,  
7 especially deputy chiefs, are content driven, time  
8 pressed and decision focused.

9 All the supplementary verbatim  
10 transcripts can support that if I need to prove  
11 something. In the IA summary, I need to know the  
12 nuts and bolts. Again, content focused, time  
13 pressed, decision focused. Tell me what I need to  
14 know to make a decision if you can do it in 20  
15 pages, don't do it in 200.

16 Q. So I take it that you're telling me you  
17 don't remember one way or the other whether you  
18 saw the longer draft?

19 A. I do not recall that I saw the longer  
20 draft. I knew there was direction given to pare  
21 it down.

22 Q. Were you aware that the longer draft  
23 from Sergeant Decker included additional sustained  
24 allegations compared to the shorter draft?



1 A. I can tell you I would not have read  
2 the longer draft, so I would not necessarily know  
3 anything about that, other than what I was briefed  
4 on, and I don't recall what the briefing included.

5 Q. Okay. When you say you were briefed on  
6 it, briefed by Decker or Knight?

7 A. Verbally by Sergeant Decker in my  
8 office, give me an update on it and lay out kind  
9 of the overall picture.

10 Q. Okay. The issue of Sergeant Moore  
11 using racially derogatory terms was under your  
12 chain of command, correct?

13 A. It would have occurred -- regardless of  
14 when it was reported, it would have occurred while  
15 under my chain of command.

16 Q. Okay. And the finding on that was a  
17 sustained allegation of -- it would have been  
18 allegation 16, which is on page 4 of that cover  
19 sheet. The finding was a sustained allegation  
20 under rule of conduct 1.15(a)1, which has to do  
21 with being courteous to other officers; is that  
22 right?

23 A. That's the -- 115 is be courteous at  
24 all times.

1 Q. Okay. What's your understanding for  
2 why he was charged with 1.15(a)1 versus an  
3 allegation or a rule of conduct having to do with  
4 equal employment opportunity?

5 A. Ask the last part of it again. I  
6 caught all of it but the very last part.

7 Q. 115(a)1 doesn't have a whole lot to do  
8 with equal employment opportunity or  
9 discrimination. It has to do with how officers  
10 treat each other, right?

11 A. Yes, or citizens.

12 Q. And so my question is: Why is there no  
13 EEO charge on this -- on this allegation?

14 A. Again, the chief and internal affairs  
15 commander decide the scope of it and the  
16 allegation. That's the reason they put in here.  
17 I can change them, as I did on several of these,  
18 but they decide what the allegation is.

19 So that's what was presented to me, and  
20 it was presented to me in a way that this is old  
21 information that's very difficult to prove.  
22 There's no evidence that rises to the level of  
23 hostile work environment or something like that,  
24 because it was old and conflicting statements from

1 different people that would be a difficult charge  
2 to prove when we had other -- the concern was kind  
3 of more of the long-term, if we look like we're  
4 just piling on, the arbitrator may even be more  
5 critical. We wanted to go with our strongest case  
6 for departmental charges, what we had the best  
7 proof of. This was very difficult to prove. It  
8 was all over the place in there who remembers what  
9 from years ago and who was present and the  
10 similar --

11 Q. Okay. Well, you had multiple officers  
12 from SRB telling Sergeant Decker that they had  
13 personally heard Sergeant Moore use words like the  
14 N word and call black officers monkeys and apes.  
15 And an officer saying that he had had a  
16 conversation with Sergeant Moore where he said  
17 that black people in general were lazy. Do you  
18 remember that?

19 A. I don't remember exactly what was in  
20 there. I remember that there were other people  
21 who were interviewed out of it, and some gave  
22 supporting statements to that effect.

23 Q. Okay. What more would you have needed  
24 to justify an actual EEO charge besides eyewitness

1 reports of racist statements?

2 MR. COGLIANESE: Objection. Go ahead.

3 A. Again, what I would be looking at is  
4 officers are reporting misconduct only when they  
5 were -- in many cases -- in Wes Sorrell's case,  
6 that initially brought it forward, after he was in  
7 trouble, which makes things suspect that they're  
8 brought forward at a later date. If others are  
9 now coming forward and saying, yeah, I heard that  
10 a couple years ago, then they are also in  
11 violation of withholding information.

12 So, again, it challenged their  
13 credibility a little bit to say, yeah, a couple  
14 years ago I heard it, but I didn't do anything  
15 about it. And they have an obligation to do  
16 something about it if they really heard it.

17 So I think we had enough in our mind to  
18 sustain and take some action on it. But to take  
19 further action like a departmental charge, I don't  
20 think, as I talked to professional standards,  
21 there was enough in the investigation to have  
22 supported that type of -- that level of activity.

23 Q. I guess I'll go back to my question,  
24 which is: What -- I understand that you feel that

1 the evidence that you had was not sufficient to  
2 sustain a departmental charge on an EEO  
3 violation -- well, first, let me start with that.  
4 If it had been deemed to be an EEO violation  
5 versus just a discourteous conduct, it would have  
6 been something that you would have pursued a  
7 departmental charge on?

8 A. Again, everything's case specific.  
9 Yeah, I would have to see the actual facts that  
10 can be proven.

11 Q. It certainly would be more serious to  
12 put an EEO label on it than just a not courteous?

13 A. Yes.

14 Q. Okay. And I guess my question is:  
15 What -- what would you have been looking for in --  
16 I mean, obviously unless Sergeant Moore is going  
17 to either be recorded saying the N word or admit  
18 to it, there's always going to be a question about  
19 whether it actually happened. I guess I'm asking,  
20 is that what you needed? You needed it to be on a  
21 recording? Or was there something in between  
22 those things that would have escalated this to a  
23 departmental charge in your mind?

24 MR. COGLIANESE: Objection. Go ahead.

1 A. The way I would describe that is this  
2 is -- all the employment actions are similar to  
3 like a criminal case where the accused has the  
4 just cause, the due process rights. And it's up  
5 to the members who are the moving party, who are  
6 making the allegations to be -- to describe  
7 activity that would be supported and credible  
8 enough to make it that type of an allegation. And  
9 I don't think they met that bar.

10 Q. What -- what would have been different  
11 that would have made it meet that bar if  
12 they're -- what more evidence could there possibly  
13 have been that would make it meet that bar,  
14 besides a recording or an admission?

15 MR. COGLIANESE: Objection. Go ahead.

16 A. I can't sit here and tell you about  
17 going back through the thousand pages and going  
18 back and reliving the discussions that I had with  
19 the chief or professional standards or Commander  
20 Knight of how we reached that conclusion. I do  
21 not recall. At the time, that was the decision  
22 that was made.

23 Q. Okay. Have you ever been involved in a  
24 situation where the department sustained a hostile

1 work environment or other race discrimination  
2 charge against an officer?

3 A. I know that we have. I don't recall  
4 ones that I was involved in.

5 Q. Okay. What are the ones that you're  
6 aware of?

7 A. I would have to go back through the  
8 records. I remember cases that they occurred. I  
9 don't remember all the circumstances.

10 Q. Okay. Another charge that was under  
11 your chain of command was the allegation of the  
12 threat against Doug Williams and Eric Cornett, and  
13 that one was forwarded as not sustained?

14 A. Correct.

15 Q. Which you upheld?

16 A. Correct.

17 Q. You knew from reading Sergeant Decker's  
18 report that -- well, first of all, we talked about  
19 multiple officers corroborated Sorrell's  
20 allegation that Moore had made racial slurs,  
21 right?

22 A. I don't -- I don't recall what they  
23 corroborated. I just recall other officers  
24 provided testimony and were asked questions about

1       that. As I sit here today, I don't remember it  
2       without reading through the whole case.

3       Q.           Well, let me put it this way: Do you  
4       remember that Sorrell recalled that Officer Scott  
5       Watkins was present when Eric Moore made the  
6       threat against Cornett and Williams?

7       A.           Seems familiar, but I don't recall the  
8       specifics.

9       Q.           Okay. Do you remember reading Decker's  
10      description of an interview with Watkins where  
11      Watkins said that he did remember Moore making  
12      statements along the lines that calling Eric  
13      Cornett a monkey or an ape?

14     A.           I don't recall. I would have to read  
15     the whole transcript.

16     Q.           Do you remember multiple officers,  
17     including Watkins, including Larry Wilson,  
18     including Whitney Lancaster, stating that they had  
19     personally heard Eric Moore talk about fighting  
20     Eric Cornett or beating him up?

21     A.           The fighting or something like that  
22     sounds more familiar than the allegation of  
23     threaten to kill.

24     Q.           Okay. My question is: If you got a --



1 if you have an officer who's accused of making a  
2 death threat against other officers, as Eric Moore  
3 was, and the finding is, well, we can't confirm  
4 that he made the death threat, because there's no  
5 sufficient corroboration, but he absolutely did  
6 threaten physical violence against another officer  
7 and used racial terms to do so, is it proper -- is  
8 the proper conclusion to say, okay, well, that  
9 allegation is not sustained because there wasn't a  
10 death threat? Or is there something else that  
11 would be appropriate in that situation?

12 MR. COGLIANESE: Objection. Go ahead.

13 A. The option would be to direct the  
14 allegation to be re-worded that there was threats  
15 to harm.

16 Q. Would that be --

17 A. That -- if we had done that, that may  
18 have been something that we could have sustained.  
19 We have to prove -- again, due process is the  
20 employee accused is the one that has the  
21 protections. Just like in a criminal case, we  
22 have the burden to prove that he made a threat to  
23 kill either officer, and we did not have that  
24 proof.

1 Q. So what is the process if the charge is  
2 Sergeant Eric Moore threatened to kill Sergeant  
3 Doug Williams and Officer Eric Cornett and, again,  
4 going to the hypothetical, he's interviewed and he  
5 says, absolutely not, I didn't threaten to kill  
6 Sergeant Williams and Eric Cornett, I threatened  
7 to, you know, beat them up in the back parking  
8 lot, what would be the next required procedural  
9 step in order to sustain a charge?

10 MR. COGLIANESE: Objection. Go ahead.

11 A. Again, an option is to reclassify the  
12 allegation that Sergeant Eric Moore threatened  
13 harm to Sergeant Williams and Officer Cornett, and  
14 then have a new summary written that would have  
15 shown where the validation is to prove that  
16 allegation. Again, we were answering the question  
17 of whether we could prove the kill.

18 Q. Would Eric Moore have had to be  
19 re-interviewed with the new charge in that  
20 situation, or could you just take his  
21 investigational interview and just say, okay,  
22 we're re-wording this charge as this?

23 A. If there's sufficient --

24 MR. COGLIANESE: Objection.

1 THE WITNESS: Sorry.

2 MR. COGLIANESE: Sorry.

3 A. If there's sufficient information  
4 there, we would not have to re-interview him. It  
5 would have taken a new summary to explain how we  
6 can prove the new allegation as worded.

7 Q. Well, Decker's summary certainly lays  
8 out in an incredible level of detail basically  
9 everything that everybody said in the  
10 investigation. It's -- I mean, it would be --  
11 you're not -- we're not talking about a big heavy  
12 lift here to re-word the allegation from threaten  
13 to kill to just threatened harm and then just  
14 saying, I didn't find that that threat  
15 corroborated, but he certainly threatened  
16 physically on multiple occasions?

17 A. I agree it's not a heavy lift.

18 Q. Okay. Would that be a serious charge,  
19 an officer threatening physical harm against  
20 another officer, especially in racially derogatory  
21 terms?

22 MR. COGLIANESE: Objection. Go ahead.

23 A. With everything else we had sustained,  
24 I don't know that that would have overshadowed the

1 other charges, because, again, a threat to do  
2 something is different than an action. Speech is  
3 different than an action. The other cases that  
4 were sustained were actions that we could prove.

5 Q. Okay. So in your estimation of CPD  
6 policy, it's more serious to mishandle  
7 departmental equipment than to use a racially  
8 derogatory term to threaten to harm a black  
9 officer?

10 A. That's not what I'm saying.

11 MR. COGLIANESE: Objection.

12 Q. Well, can you clarify it for me? What  
13 he was found to have done, the more serious  
14 charges, the things that resulted in the  
15 departmental charges all had to do with theft of  
16 property or mishandling of departmental property  
17 or time. And the charges that didn't get that  
18 treatment as departmental charges had to do with  
19 treatment of black officers by Eric Moore. And so  
20 I'm just trying to figure out where threatening to  
21 harm somebody in racially derogatory terms might  
22 fall in that spectrum?

23 A. I was trying to look to see where --  
24 when the date the investigation commenced was. It

1 sounds like it was October of '14 or something.

2 And as you see on this, this came out  
3 September of '15, this was signed in March of '16.  
4 I think when we do that, we run the risk of  
5 continuing to delay an investigation for another  
6 month or two when there was, we felt, sufficiently  
7 strong charges to go with termination. We tend to  
8 do a termination case. We did terminate. The  
9 director heard it and terminated. Arbitrator  
10 ruled differently.

11 So I think we were looking at  
12 continuing to drag a case out longer by sending  
13 him back. With something that long, we could have  
14 sent it back five, six, seven times. If we kept  
15 wanting to add things, clean something up,  
16 re-interview something, I think we felt we had  
17 enough here to terminate, and that's what we  
18 ultimately did.

19 Q. In hindsight, do you think it would  
20 have helped to include that allegation that -- as  
21 a departmental charge that he had threatened to  
22 harm black officers using racially derogatory  
23 terms?

24 MR. COGLIANESE: Objection. Go ahead.

1 A. I do not think so. I think, again, a  
2 threat to harm, something happened two years prior  
3 with no evidence of any intent to act on that,  
4 just speech, is different than the case that we  
5 had proven that were actual actions. And I think  
6 that was our strongest case.

7 Q. Okay. These -- this reasoning that  
8 you're giving me, is this something that you  
9 discussed with Chief Jacobs and the rest of the  
10 executive staff, or is this just your individual  
11 analysis?

12 A. I would say individual analysis.

13 Q. Okay. Did you have a discussion with  
14 Chief Jacobs where there was a strategic  
15 consideration of basically we don't want to charge  
16 him with too many things, it will distract the  
17 arbitrator, we don't want to spend any more time  
18 on this, that kind of thing?

19 A. Not that I recall. I did the  
20 discipline grievance job for about two years  
21 myself and have been through numerous  
22 arbitrations. And so I believe I was basing a lot  
23 of it based on my experience, on what we did have  
24 and could prove and moving forward with that. So

1 I think it was more of my experience.

2 Q. Okay. Do you recall any conversations  
3 in which Chief Jacobs questioned whether maybe  
4 there should be EEO charges or more serious  
5 charges on the EEO aspects of this?

6 A. I do not recall.

7 Q. Okay. Do you remember conversations  
8 with Sergeant Decker where Sergeant Decker  
9 advocated making further findings against Sergeant  
10 Moore on the EEO aspects of the case?

11 A. I don't recall the EEO aspects being  
12 discussed further than what we had.

13 Q. Do you remember him suggesting that  
14 there should be a charge of untruthfulness based  
15 not just on the overtime and equipment issues, but  
16 also on the EEO aspects of the case and the threat  
17 and some of the stuff that happened in narcotics?

18 A. It's entirely possible. Again, as I  
19 said, I had given some constructive feedback to  
20 Sergeant Decker that it was convoluted, the  
21 investigation as written, and it needed to be  
22 streamlined so the reader could find what it was  
23 that they could prove. People get lost in the  
24 mass. So it's possible we discussed it, but that

1 was it.

2 Q. Okay. Do you recall that in the final  
3 version of Sergeant Decker's IAB summary, the only  
4 allegation of untruthfulness against Sergeant  
5 Moore was about a specific overtime or equipment  
6 issue?

7 A. I don't recall.

8 Q. Okay. But you do recall having a  
9 conversation with Sergeant Decker about making --  
10 making sure, in particular about the  
11 untruthfulness allegations, that you could connect  
12 the dots and that it was more clearly written than  
13 what you had read?

14 A. I recall having a discussion over the  
15 entire set of -- scope of allegation that whatever  
16 you are sustaining, if someone can turn to a page  
17 and go there it is, I've got it.

18 Q. Okay. Did you become aware during the  
19 course of the investigation or from reading  
20 Sergeant Decker's summary that Sergeant Moore, in  
21 addition to allegedly threatening Sergeant  
22 Williams and Officer Cornett, had engaged in some  
23 threatening conduct toward an officer named Dick  
24 Elias?



1 A. There's some recent conversation I've  
2 had that refreshed my memory that that was an  
3 allegation. I don't remember at the time.

4 Q. Okay. In particular, you remember that  
5 the allegation was that Dick Elias and Sergeant  
6 Moore were walking down a hallway or around a  
7 corner, and when Sergeant Moore saw Officer Elias,  
8 he made a motion as if he was going to draw his  
9 weapon?

10 A. That's what I recall hearing recently.

11 Q. Okay.

12 A. I don't remember at the time.

13 Q. Well, was it -- I mean, it was in  
14 Sergeant Decker's summary, you would have --

15 A. Right.

16 Q. -- read it at the time?

17 A. I would have read it at the time.

18 Q. Okay.

19 A. I don't remember it.

20 Q. Were you -- I mean, were you consulted  
21 at the time about whether that allegation should  
22 be investigated further?

23 A. I don't believe so.

24 Q. Okay. Sergeant Decker indicated in his

1 report that - and I'm quoting from the report,  
2 that this -- well, actually I'm not quoting yet,  
3 but he said that he was not pursuing that further  
4 because, and I'm quoting, this concern was brought  
5 to the attention of Lieutenant Brust at the time.

6 Does that -- is that an adequate  
7 explanation for not including an allegation in an  
8 IA summary?

9 A. It is, because if he brought it to the  
10 attention of Lieutenant Brust and Lieutenant Brust  
11 says, I'll take care of it and counseled the  
12 sergeant on that, then action would have already  
13 been taken. If we try to go back and issue some  
14 other type of discipline out of it, the defense,  
15 if you will, or the union position would be,  
16 he's -- a card laid is a card played, as they say.  
17 He's already -- this has already been  
18 dispositioned by the lieutenant in realtime, we  
19 can't go back now and change that.

20 Q. So as soon as Lieutenant Brust went and  
21 talked to Sergeant Moore about this incident, it  
22 became out of bounds for internal affairs?

23 A. Virtually, yes. There are -- what our  
24 recourse would have been is to go to Lieutenant

1     Brust and corrected him and said, don't do that  
2     again, you've created a situation now where we  
3     can't change the outcome of that.

4     Q.           Okay. If you've got a situation where  
5     a sergeant does something potentially illegal or  
6     against departmental rules, and their lieutenant  
7     basically wants to just protect them, doesn't that  
8     put the lieutenant in a situation where they're  
9     just -- they can prevent IA from investigating a  
10    pretty serious charge?

11    A.           There is a mechanism to, again,  
12    discipline the lieutenant and explain in writing  
13    basically why you're disregarding that activity  
14    because it was out of bounds and didn't have the  
15    authority to disposition it. There are certain  
16    things that the deputy chief has to disposition or  
17    the chief.

18                So if the lieutenant took a certain  
19    action, then he wasn't -- didn't have the  
20    authority to disposition it, then we could  
21    overrule it and discipline him for interfering  
22    with the deputy chief's right to disposition that.

23    Q.           What's the criteria for that? I mean,  
24    what are the things that the lieutenant would not

1 have the authority to deal with?

2 A. If it came in as a citizen complaint or  
3 if that allegation was directed to be conducted by  
4 deputy chief or chief, he does not have the  
5 authority to disposition the case. If it's  
6 something that was discovered in the  
7 investigation, and I don't know the fact pattern  
8 there, but if it's something that was brought to  
9 Lieutenant Brust's attention and he went and took  
10 care of it on his own, it was not something that  
11 was designed to be -- or ordered to be  
12 investigated by the chief or the deputy chief,  
13 then he could take that action. May not be the  
14 action we wanted him to take, but he had the  
15 authority to take the action at that time.

16 Q. How could it be determined whether  
17 Lieutenant Brust had done something inappropriate  
18 or not without investigating it at the IAB level?

19 A. Just based on the known facts at the  
20 time, you can -- again, I don't know the fact  
21 pattern you're referring to, but if the -- if the  
22 allegation was brought to the chain of command  
23 that he made a threatening move towards Dick Elias  
24 and was not part of this investigation, and Brust

1 said, I'll take care of it, because that's  
2 something that needs immediate attention, I'll  
3 take care of it, and he took care of it, then he  
4 had the authority to do that.

5 It may not be what he wanted him to do,  
6 but he had authority to do it. If it was part of  
7 this investigation and I directed it to be  
8 investigated, he did not have the authority to  
9 disposition that.

10 Q. Okay. So even with Lieutenant Brust,  
11 if he just decided, I don't think this is really  
12 that serious, I'm just going to tell Sergeant  
13 Moore not to threaten people with guns anymore,  
14 then not only can Sergeant Moore not be  
15 investigated or disciplined for the action, but  
16 Lieutenant Brust can't be either, because it's  
17 within his scope of authority?

18 A. I didn't say he couldn't be  
19 investigated for it. I said, if it was -- if  
20 these fact patterns or this criteria wasn't in  
21 place, then he was within his authority. He can  
22 still be investigated to see if that was the fact  
23 pattern.

24 Q. Okay. Given all of the other things

1 that you know about what Sergeant Moore was being  
2 accused of and the timing of this, wouldn't that  
3 have been appropriate in this situation to at  
4 least investigate it to determine whether  
5 Lieutenant Brust had handled it properly or that  
6 he had actually handled it?

7 MR. COGLIANESE: Objection. Go ahead.

8 A. It wasn't my chain of command at the  
9 time, so I can't speak to what they -- what  
10 decisions they made around that --

11 Q. Okay.

12 A. -- situation.

13 Q. Is that a decision that Commander  
14 Knight could make on her own in terms of  
15 instructing Decker about what to investigate? Or  
16 would she have had to consult with whoever the  
17 deputy chief was over that chain of command?

18 A. She could have made that direction. It  
19 would have been more likely that the chain of  
20 command or the chief would have been consulted on  
21 that to get additional direction. Internal  
22 affairs tries to stay neutral and disinterested in  
23 not adding to the scope of an investigation  
24 without getting permission from the chain of

1 command.

2 Q. Okay. What about deciding not to add  
3 to the scope of the investigation? Do they do  
4 that on their own or do they check with the chain  
5 of command?

6 A. Case by case.

7 Q. Okay. Sergeant Decker told Officer  
8 Shaw in response to -- it was Officer Shaw who  
9 raised that concern with what happened with Elias.  
10 Sergeant Decker told him in response to that that  
11 he was instructed that they weren't going to take  
12 any third-party complaints about officer -- about  
13 Sergeant Moore, and that if Elias wanted to raise  
14 it, he would have to raise it himself. Is that an  
15 accurate -- is that something appropriate within  
16 the department?

17 A. Sounds like a reasonable instruction.  
18 Again, whether things are the way we would like  
19 them to have occurred, I can't speak on -- I don't  
20 have all the facts. What you've described sounds  
21 like a reasonable instruction, that if you feel  
22 you are threatened, our policy is -- written  
23 policy that the employee has to write a letter  
24 requesting the case be investigated.

1 Q. Okay. But it's not always the  
2 employee's choice, right? The employee can be  
3 instructed to write a letter?

4 A. They can be, yes.

5 Q. But that's what happened with Sorrell,  
6 for instance, that Sorrell raised some concerns  
7 informally and he was instructed to write a  
8 letter?

9 A. Yes.

10 Q. Do you know one way or the other  
11 whether Dick Elias was aware of all the other  
12 threatening or inappropriate conduct that Sergeant  
13 Moore was being accused of at the time?

14 A. No knowledge.

15 Q. Okay. You really think it's reasonable  
16 in that context to leave it to individual officers  
17 whether they individually feel like it was a real  
18 threat or not --

19 MR. COGLIANESE: Objection. Go ahead.

20 Q. -- given that they might not know that  
21 it's part of a pattern?

22 MR. COGLIANESE: Objection. Go ahead.

23 A. They're trained and experienced police  
24 officers who carry a firearm and defend themselves



1 and others all the time. I give police officers a  
2 lot of credit to be able to call something what it  
3 is if it's something that they're concerned by or  
4 feel that needs investigated.

5 Q. Well, you understand that in this  
6 particular situation, Officer Elias was the person  
7 who brought it to the attention of Lieutenant  
8 Brust at the time, because he felt that it was a  
9 threatening situation?

10 A. Yeah. I don't have the facts. That  
11 was not in my chain of command. I don't have the  
12 facts that you're asking about.

13 Q. Okay. If this had been investigated  
14 and it had been determined that, in fact, Sergeant  
15 Moore had made a threatening gesture toward his  
16 weapon as to another officer of color besides Eric  
17 Cornett and Sergeant Williams, wouldn't that have  
18 helped corroborate the threat allegations that he  
19 was originally charged with?

20 MR. COGLIANESE: Objection. Go ahead.

21 A. It would be considered in context with  
22 the rest of the investigation.

23 Q. Okay. You also saw in Sergeant  
24 Decker's report that Sergeant Moore was alleged to

1 have purchased an illegal weapons enhancement  
2 called a lightning link?

3 A. I don't even recall that. I can't say  
4 that -- I didn't see at the time, but that one  
5 just is something I don't recall from the  
6 investigation.

7 Q. Okay. I'm handing you what's been  
8 marked previously as Exhibit 38, which is Sergeant  
9 Decker's investigative summary. Can you turn to  
10 page 169 of that report? The page numbers are at  
11 the top.

12 A. Yeah, I got it.

13 Q. You can unclip it if you want. Just be  
14 aware it's not stapled.

15 A. I got it.

16 Q. Do you see a reference to lightning  
17 link on that page? I think it's toward the  
18 bottom.

19 A. I do see it.

20 Q. Does this refresh your recollection  
21 about what this was about?

22 A. It refreshes it. Like I said, it's  
23 been a long time, but it refreshes it.

24 Q. Sergeant Decker says in this stage of

1 the report that this allegation wasn't pursued  
2 because, quote, this concern has also already been  
3 addressed by the appropriate law enforcement  
4 agency.

5 Is that consistent with CPD practice?

6 A. Again, it's a decision that was made  
7 outside my involvement or input, so I can't speak  
8 to that.

9 Q. I mean, you're the acting or interim  
10 chief of the department. I mean, if this is  
11 something that if it came up now, you would only  
12 have some input on, and even when you were deputy  
13 chief, if it had happened within your chain of  
14 command, you would certainly been able to do that,  
15 right?

16 A. Yes.

17 Q. And I think we talked earlier about  
18 you've had investigations in the past, including  
19 this investigation, where something was  
20 investigated as a potential crime, but it was  
21 determined not to have been criminally chargeable,  
22 but then it still proceeded as an administrative  
23 investigation, right?

24 A. Yes.

1 Q. Isn't it inconsistent with the way that  
2 the Columbus Police operate that just the fact  
3 that something is determined not -- that a law  
4 enforcement agency CPD or otherwise determines  
5 that they're not going to proceed with the  
6 criminal execution, that does not mean that it  
7 couldn't -- that it might be -- might not be  
8 something that IA should pursue or that the chain  
9 of command should pursue?

10 MR. COGLIANESE: Objection. Go ahead.

11 A. This is a concern I certainly could see  
12 could have been turned into an expanded scope of  
13 the investigation on.

14 Q. Did you know that Sergeant Decker  
15 consulted with the ATF agent in charge and the  
16 agent told him that the reason that they didn't  
17 prosecute Sergeant Moore was because he was a  
18 police officer and they took his word as a police  
19 officer that he didn't accept delivery of the  
20 equipment he ordered?

21 A. I don't recall that.

22 Q. Okay. If you had known that at the  
23 point when this was being investigated, would that  
24 have caught -- given you cause for concern?

1 MR. COGLIANESE: Objection. Go ahead.

2 A. Yes.

3 Q. If you knew that Jennifer Knight was  
4 aware of that at the time that Sergeant Decker had  
5 that conversation and instructed him not to follow  
6 up because the ATF had already handled it, would  
7 that give you cause for concern?

8 MR. COGLIANESE: Objection. Go ahead.

9 A. Without confronting her and finding out  
10 what she knew at the time or what -- the base for  
11 her decision was or who else had input into her  
12 decision, I can't speak to that.

13 Q. Okay. Given that Sergeant Moore was  
14 being accused of threatening other officers,  
15 including a potential death threat, wouldn't it  
16 escalate that concern to know that whether or not  
17 he had taken delivery of a device that would turn  
18 a semiautomatic weapon into an automatic weapon?

19 A. From what I understand --

20 MR. COGLIANESE: Objection. I'm sorry.  
21 Go ahead.

22 A. From what I understand here, he -- we  
23 had information that he did not take possession of  
24 it.

1 Q. Okay. And I'm representing to you,  
2 Sergeant Decker was told by the ATF that, in fact,  
3 there was no -- there was no information that he  
4 didn't accept delivery, other than Sergeant Moore  
5 just saying he didn't and them taking his word as  
6 a police officer. With that information, isn't  
7 that -- wouldn't it make the concerns about the  
8 death threat a little bit more serious?

9 MR. COGLIANESE: Objection.

10 Q. Or a lot more serious?

11 MR. COGLIANESE: Objection. Go ahead.

12 A. Yes.

13 Q. If Jennifer Knight decided on her own,  
14 knowing that information, not to allow Sergeant  
15 Decker to investigate that allegation further,  
16 would that -- would that be a cause for concern  
17 for you as a command officer?

18 MR. COGLIANESE: Objection. Go ahead.

19 A. I do not know what information she was  
20 acting on, so I can't -- I can't --

21 Q. I'm asking you -- and I'm sorry, I'm  
22 asking you to assume that Sergeant Decker was  
23 being truthful to us when he told us that he  
24 informed Jennifer Knight of that -- of what he

1 learned from the ATF.

2 A. What I'm saying is I'm not going to  
3 assume what Jennifer Knight was acting on in her  
4 frame of reference or her knowledge base. I don't  
5 know, so I can't speak to the appropriateness of  
6 her decision.

7 Q. Okay. When you read this report, even  
8 though it was outside of your chain of command,  
9 you had the authority to request additional  
10 investigation on these issues if you wanted it,  
11 right?

12 A. Yes.

13 Q. And, for instance, if you felt like,  
14 okay, well, this might not be important to Deputy  
15 Chief Gray or Deputy Chief -- gosh, I'm blanking  
16 on the name of who took it over.

17 A. Woods.

18 Q. Woods. If you felt like maybe they  
19 didn't think it was pertinent by itself under the  
20 narcotics chain, but it might be pertinent to my  
21 investigation of the threat, you could have  
22 instructed Decker to investigate it further?

23 A. As I mentioned, I focused on the part  
24 of the investigation that I was to weigh in on,

1 and because of that, I did not take that part into  
2 my decision-making.

3 Q. Did you have any role in advising what  
4 should or shouldn't be charged on the allegations  
5 under the narcotics chain of command?

6 A. No.

7 Q. Okay. Did you have any informal  
8 discussions with Deputy Chief Woods or Deputy  
9 Chief Gray about their charging decisions on those  
10 things?

11 A. Not the charging decisions about --  
12 probably had some discussions about where I was at  
13 on the investigation that I was forwarding to them  
14 to decide on issues that occurred and any decision  
15 they would need to make in their chain of command.

16 Q. Okay. Were you in meetings where  
17 Deputy Chief Woods or Deputy Chief Gray were  
18 explaining their decisions to Chief Jacobs about  
19 these issues?

20 A. Not that I recall.

21 Q. Okay. Did you have any reaction to  
22 what you read in Decker's report about the  
23 treatment of the filling of the narcotics position  
24 involving Officer Shaw and others?



1       A.           I didn't have any information from the  
2       other perspective of what was going on in that  
3       chain. I didn't know what their reasons were, so  
4       I didn't have a reaction, because I wasn't going  
5       to react to something I didn't have the full facts  
6       on.

7       Q.           Okay. Did you become aware while the  
8       investigation was going -- I'll start I want to  
9       talk about different timeframes, first of all,  
10      while the investigation was going on, before  
11      Decker's report, did you become aware that Decker  
12      had recovered text messages from Sergeant Moore  
13      making threatening comments about what would  
14      happen if Officer Shaw, Officer Lancaster or  
15      officer Richard Moore took the narcotics position?

16      A.           I don't recall obtaining the text  
17      messages. I recall some conversation about  
18      knowing that there was statements or something  
19      about that.

20      Q.           Did you take that into account in your  
21      conclusions about the threats that Sergeant Moore  
22      was alleged to have made against Cornett and  
23      Williams?

24      A.           All I took into account was stuff that

1 was provided and sustained in the investigation,  
2 not stuff that was conjecture or secondary to it.

3 Q. Okay. Were you involved at all in the  
4 chief's decision to vacate and repost the  
5 narcotics position that was at issue in this  
6 investigation?

7 A. No involvement that I recall.

8 Q. Okay. You were not involved in any  
9 decision-making about how Sergeant Moore would be  
10 charged or disciplined on the failure to follow an  
11 order from Commander Cameron?

12 A. No, I had no input in that.

13 Q. Did you have any role in Sergeant  
14 Moore's arbitration once he was terminated?

15 A. No. I don't even recall testifying.  
16 It's possible because I've testified in different  
17 things, but I don't recall having any role  
18 whatsoever.

19 Q. Okay. Were you informed -- well, you  
20 know that Officer Shaw and Officer Cornett both  
21 filed charges with the Ohio Civil Rights  
22 Commission related to these allegations?

23 A. Yes.

24 Q. When did you become aware of those

1 charges?

2 A. Whenever they were served.

3 Q. Okay. Were you ever involved in  
4 discussions of what the impact would be on the  
5 Division of Police if the division took the  
6 position that Sergeant Moore had committed an EEO  
7 violation towards Officer Shaw and Officer  
8 Cornett?

9 MR. COGLIANESE: Objection. Go ahead.

10 A. No.

11 Q. Okay. Nobody ever discussed that one  
12 way or the other, that it would be good --

13 A. I can't say.

14 Q. -- or bad? I mean in your presence.

15 A. I can say I was not involved in any  
16 discussions.

17 Q. I'm asking about your personal  
18 knowledge.

19 A. Yeah, not in my presence.

20 MR. VARDARO: Okay. I would like to  
21 take a five-minute break, and I might be close to  
22 done.

23 (A recess is taken.)

24 Q. Chief Quinlan, earlier in the

1 deposition you -- we were talking about the racial  
2 slurs by Sergeant Moore. And you mentioned that  
3 you felt like it didn't rise to the level of a  
4 hostile work environment. Can you explain what  
5 you meant by that?

6 A. My understanding of the case is that it  
7 was done not in the -- not in the presence of  
8 anyone other than Wes Sorrell, and Wes Sorrell's  
9 credibility was nonexistent. So that complicated  
10 the issue.

11 Q. Well, first of all, you remember other  
12 officers corroborated that Sergeant Moore used  
13 racial slurs toward other officers and towards  
14 black people in general, right?

15 A. Again, as you said, and there was  
16 some -- read for their credibility, there was some  
17 stuff made well after the fact that, again, made  
18 some challenges to the credibility that they're  
19 bringing something up many months after it  
20 occurred.

21 Q. Was this --

22 A. When they have a requirement to report.

23 Q. I understand that Wes Sorrell, there  
24 were some questions about his motive for raising

1 concerns about Sergeant Moore. Did you have some  
2 similar concern about officers like Larry Wilson  
3 and Scott Watkins?

4 A. I don't remember what their statements  
5 were to respond to what my assessment was of their  
6 credibility at the time.

7 Q. Okay. Strictly the fact that an  
8 officer didn't mention hearing the racial slur  
9 from a white commanding officer at the time that  
10 it was made, but then reported it in response to  
11 questions in a later IA investigation, would that  
12 be a reason to doubt their credibility?

13 A. I would have to read the whole  
14 transcript to see what the -- what the nature of  
15 it was.

16 Q. Okay. I guess that doesn't really  
17 answer the question that I asked, which is: If  
18 just the fact that an officer doesn't report a  
19 racial slur as soon as they hear it and -- does  
20 that cast doubt on their credibility when they  
21 later answer an IA investigator's question and say  
22 they did hear the racial slur?

23 MR. COGLIANESE: Objection. Go ahead.

24 A. You would have to show me what it was

1       they said so I could try to refresh my mind why I  
2       doubted or questioned their credibility.

3       Q.           Okay. I will show you the summaries,  
4       but I guess I'm just asking in general, there are  
5       reasons why employees sometimes don't report  
6       discrimination allegations, including fear of  
7       retaliation, including not wanting to get somebody  
8       in trouble. I mean, that happens, right?

9       A.           Yes.

10      Q.           The fact that they don't immediately  
11      report it doesn't automatically mean that they're  
12      less credible when they describe it later --

13      A.           Correct.

14      Q.           -- right? Okay.

15                   And I'm looking at the wrong thing. I  
16      guess I'll start you with this one. I'm going to  
17      hand you what's previously marked as Plaintiff's  
18      Exhibit 44, which is the informational summary  
19      Sergeant Decker prepared of his interview with  
20      Larry Wilson. If you could take a look through it  
21      and tell me if you see anything or it reminds you  
22      of anything that would cast doubt on Officer  
23      Wilson's credibility?

24      A.           So, for instance, on 004514 Bates, last

1 paragraph, they, you know, just Wes and them said,  
2 you know, he thinks that all black people are  
3 inferior, that we're dumb. So he's saying Wes  
4 said he thinks all black people are dumb. He's  
5 not speaking on firsthand knowledge. He says the  
6 N word got thrown around a lot. Have I heard him  
7 say it? No. Do I believe he said it? Yes.  
8 Something like that would be an example where it's  
9 not definitive.

10 Q. Officer Wilson -- I mean, I'll ask you  
11 to just read the whole thing. I know it will take  
12 a little bit of time, but you wanted to get a  
13 sense of the whole thing. There are things that  
14 Officer Wilson describes that are not secondhand  
15 or things that he heard around. These are things  
16 that he heard Sergeant Moore say himself. And I'm  
17 asking you whether there was any reason from the  
18 informational summary or from anything else that  
19 you knew that would cast doubt on Officer Wilson's  
20 credibility describing what he heard firsthand?

21 MR. COGLIANESE: Jeff, just to be  
22 clear, are you going to have him read everything?  
23 What exactly do you want him to read it for, just  
24 so we can --

1 MR. VARDARO: I'm going to look at  
2 something because we have a little bit more detail  
3 on that, but I think I asked the question I want  
4 answered.

5 Q. And I guess in particular, were Officer  
6 Wilson's summary -- there's comments that he  
7 describes hearing Sergeant Moore say personally  
8 that he wants to wipe the floor with Eric Cornett,  
9 or take him out back, and that he threatened to  
10 put a GPS on Eric Cornett's car and take his  
11 badge. And also that he observed Eric Moore  
12 tacitly admit to making racial slurs, in that  
13 other people asked him directly about it and he  
14 didn't deny it.

15 A. Again, without going through line by  
16 line, there's just a lot of stuff in here as one  
17 example that he hedged his answer that would not,  
18 I don't think, stand up to being definitive. I  
19 asked Officer Wilson if he ever heard -- this is  
20 on 004516 -- if he ever heard Sergeant Moore when  
21 speaking with Sergeant Williams or Officer Cornett  
22 refer to them as a monkey? He responded, I don't  
23 know. I don't know. And this is why I say I  
24 don't know. It all borders together. And he goes



1 on. I've heard him many times say, if I could get  
2 him someplace, I would wipe the floor with him,  
3 but it's because of stuff that Eric Cornett had  
4 done to him that he felt was unjust.

5 Officer Wilson elaborated. Sergeant  
6 Moore goes, Larry, if I could get my hands, he  
7 goes, you know what, if all it takes for us to  
8 settle this like men, if we could just go back, we  
9 would settle it right there.

10 And, again, he's explaining that he  
11 stated this was in an e-mail conversation or  
12 something that to this day, I never saw it, I just  
13 heard about it. Again, there's just -- I didn't  
14 feel there was enough here to -- with everything  
15 else we had to -- to pursue that.

16 Q. Well, in what you just read, it would  
17 be accurate to say that Officer Wilson was not  
18 definitive at all about hearing Sergeant Moore  
19 make racial slurs, but he was very definitive  
20 about hearing him say a number of times, if I  
21 could get him someplace, I would wipe the floor  
22 with him, and things along those lines?

23 A. Yes. And, again, this is something  
24 that to my understanding was months old. And they

1 had worked together and he never actually acted on  
2 anything. So I had no reason to believe this was  
3 anything more than idle chatter between one  
4 employee and another. And that's -- that's where  
5 that --

6 Q. Okay.

7 A. -- was resolved.

8 Q. Can you take a look at Plaintiff's  
9 Exhibit 11? And I'll ask you the same question  
10 about Officer Watkins. And in particular, I want  
11 you to take a look at pages 4 and 5 of this  
12 summary where he confirms that Sergeant Moore  
13 called Eric Cornett a monkey or an ape or both.

14 A. He was asked if he had ever heard him  
15 refer to officer as a monkey, an ape or the N  
16 word, and I'm not repeating. He responded, yes.  
17 He asked, well, which one? And he said, a monkey.

18 Q. And he also said on page -- on the last  
19 page, second-to-last paragraph of the whole  
20 interview, that he had heard Sergeant Moore refer  
21 to black people as a race as lazy?

22 A. Correct.

23 Q. And then the paragraph after that, he  
24 heard -- he said that he heard him refer to

1 Officer Cornett as an ape?

2 A. Yeah. And he also -- he says  
3 specifically, I never heard the N word, but he  
4 said -- asked if he heard Sergeant Moore say he  
5 was going to go talk to Lieutenant Kemmerling  
6 about that ape? I've heard him refer to Cornett  
7 as an ape specifically about Kemmerling. I don't  
8 remember the timing on that.

9 Q. Okay. So, again, he's definitive about  
10 him calling Officer Cornett racial slurs and he's  
11 definitive about him calling black people lazy.  
12 He's less definitive about the -- some of the  
13 specific context here?

14 A. Correct. And to reiterate on the  
15 allegation 16, Sergeant Eric Moore referred to  
16 Williams, Cornett or others using racially  
17 derogatory language, I sustained that and said  
18 it's accurate.

19 Q. Okay. And I guess I'll go back to my  
20 original question. You said the reason why it was  
21 sustained as discourteous but not as an EEO  
22 violation was, at least in part, because you felt  
23 it did not rise to the level of hostile work  
24 environment. And that's what I was sort of

1 reacting to is what -- what leads you to say that  
2 in particular?

3 MR. COGLIANESE: Objection. Go ahead.

4 A. The -- the individuals who state that  
5 they were suffering career -- hostile work  
6 environment had no knowledge based on my reading  
7 of this of this occurring. It was other  
8 individuals who heard some stuff, but were all  
9 over the place on what it was that they heard or  
10 what the time frame was, whether it was two months  
11 ago or two years ago. And they did not report it,  
12 so I sustained it that it was improper, absolutely  
13 100 percent wrong, no question.

14 But to show -- again, the burden is on  
15 us to show that it was sustained as a hostile work  
16 environment. There was no actions taken against  
17 the officers. They had no knowledge of it at the  
18 time. So I did not see how I could prove that was  
19 a hostile work environment to something they had  
20 no knowledge of.

21 Q. Okay. Would it have to -- I guess my  
22 question is really about the -- what you mean by  
23 "a hostile work environment." Like what -- does  
24 that have something to do with the Columbus Police

1 standard for what is and isn't an EEO violation?

2 A. It follows the statutory language,  
3 which I would have to pull out the directory and  
4 go through the four or five items that are  
5 specifically listed. But if you have that --  
6 again, generally in my mind I have an idea, but I  
7 would have to cite what it was that I compared it  
8 to.

9 Q. Okay. Did you have any conversations  
10 with either division or city HR personnel about  
11 what would or would not be an EEO violation in  
12 these circumstances?

13 A. Not as I recall.

14 Q. Okay. Commander Jennifer Knight was at  
15 some point removed from internal affairs by Chief  
16 Jacobs. Were you aware of that?

17 A. I will classify it or categorize it as  
18 reassigned.

19 Q. Okay.

20 A. Which the chief does on a regular basis  
21 to all commanders.

22 Q. Okay. Do you know why in particular  
23 Jennifer Knight was reassigned from her position  
24 in internal affairs?

1 A. I just know that the chief made three  
2 or four changes, which was her prerogative. So I  
3 don't know, you would have to ask her why she made  
4 that specific decision. I don't know.

5 Q. Okay. So the chief doesn't consult  
6 with you about that?

7 A. No. She would not do that.

8 Q. Okay. And you didn't make any  
9 recommendations about reassigning Jennifer Knight  
10 from IA?

11 A. No. My entire limitation was when  
12 she -- when the chief mentioned she was going to  
13 make X moves, whatever individuals they were, and  
14 said she was going to change the assignments of,  
15 you know, A, B, and C, Jen Knight was one of them.  
16 I said I would be happy to have her on patrol  
17 north, so I welcomed her to come to my  
18 subdivision.

19 Q. Okay. Were you aware at the time that  
20 you told the chief that, and at the time that  
21 Jennifer Knight was reassigned from IA, that there  
22 had been allegations that Jennifer Knight was not  
23 properly handling allegations of discrimination  
24 that she was in charge of reviewing with IA?

1 MR. COGLIANESE: Objection. Go ahead.

2 A. I don't know that they were about  
3 allegations of discrimination. I know there were  
4 people -- I had heard that there were other chains  
5 of command that did not like the outcomes of  
6 investigations, did not feel they were being  
7 investigated to their satisfaction. That's all I  
8 know.

9 Q. What were the chains of commands that  
10 had a problem with that?

11 A. I believe it was Chief Kuebler and  
12 possible Chief Bash, as I recall. But I don't --  
13 I can't confirm, just as I recall.

14 Q. What's the best of your recollection  
15 what that was about?

16 A. I think how long it takes to get an  
17 investigation through the chain of command was --  
18 is just unacceptable. The -- again, this type of  
19 investigation that is so expansive and not  
20 narrowly defined, to focus on the real issues, I  
21 think we probably could have narrowed this down to  
22 three concrete allegations that were critical  
23 misconduct related, untruthfulness, unbecoming  
24 conduct, violations of laws potentially. If we

1 had that proof for EEO sake, could have narrowed  
2 it down and had probably a better work product.  
3 So I think they were wanting a change in direction  
4 there.

5 Q. Okay. Do you remember specifically  
6 whether there was a concern about an investigation  
7 that Jennifer Knight had authority over for --  
8 involving a racial profiling by patrol officers in  
9 a particular zone?

10 A. I remember the case.

11 Q. Okay. Do you remember the -- there was  
12 concerns within the chain of command about  
13 Jennifer Knight's handling of the case?

14 A. I remember there were allegations made  
15 by the person accused of discrimination making  
16 allegations, but I did not investigate them. I  
17 don't have any firsthand knowledge of what was  
18 occurring in those investigations. I did not --  
19 it was a whole different chain of command, so I  
20 did not oversee those.

21 Q. Okay. How about the situation where  
22 Falacia Dragin had raised a concern about Jennifer  
23 Knight telling a white command officer that she  
24 had made a discrimination complaint about that he



1        didn't need to worry about the investigation and  
2        she was going to handle it?

3        A.            I know that allegation was made. I  
4        don't know what the actual statement was or what  
5        the context was, so I made no conclusion on that.

6        Q.            Okay. You don't know whether that had  
7        any impact on Jennifer Knight's reassignment from  
8        IA?

9        A.            The chief would not have talked to me  
10       about that.

11       Q.            Okay. With one exception, those are  
12       all the questions I have for you today. The one  
13       exception is: Do you have anything in what you've  
14       said throughout the whole rest of the day that you  
15       feel you need to add to or correct at this time?

16       A.            I feel I did that along the way.

17                    MR. VARDARO: All right. Then those  
18       are all the questions I have.

19                    THE WITNESS: Thank you, sir.

20                    MR. COGLIANESE: He'll read.

21                    (Signature not waived.)

22                    - - - - -

23                    Thereupon, the foregoing proceedings  
24       concluded at 3:15 p.m.

1 State of Ohio : C E R T I F I C A T E  
2 County of Franklin: SS

3 I, Mary Bradley, RPR, CRR, a Notary Public in  
4 and for the State of Ohio, certify that Thomas  
5 Quinlan was by me duly sworn to testify to the  
6 whole truth in the cause aforesaid; testimony then  
7 given was reduced to stenotype in the presence of  
8 said witness, afterwards transcribed by me; the  
9 foregoing is a true record of the testimony so  
10 given; and this deposition was taken at the time  
11 and place specified on the title page.

12 Pursuant to Rule 30(e) of the Federal Rules of  
13 Civil Procedure, the witness and/or the parties  
14 have not waived review of the deposition  
15 transcript.

16 I certify I am not a relative, employee,  
17 attorney or counsel of any of the parties hereto,  
18 and further I am not a relative or employee of any  
19 attorney or counsel employed by the parties  
20 hereto, or financially interested in the action.

21 IN WITNESS WHEREOF, I have hereunto set my  
22 hand and affixed my seal of office at Columbus,  
23 Ohio, on August 6, 2019.

24 

25 \_\_\_\_\_  
26 Mary Bradley, Notary Public - State of Ohio  
27 My commission expires September 19, 2019.

Witness Errata and Signature Sheet  
Correction or Change Reason Code  
1-Misspelling 2-Word Omitted 3-Wrong Word  
4-Clarification 5-Other (Please explain)

Page/Line	Correction or Change	Reason Code
_____	_____	_____
_____	_____	_____
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I, Thomas Quinlan, have read the entire transcript of my deposition taken in this matter, or the same has been read to me. I request that the changes noted on my errata sheet(s) be entered into the record for the reasons indicated.

Date\_\_\_\_\_Signature\_\_\_\_\_

The witness has failed to sign the deposition within the time allowed.

Date\_\_\_\_\_Signature\_\_\_\_\_

Ref: Mb30925tq S-mb P-bw

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